1877

P-Y

FEB-NOV

37

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 3, 1877. { 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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 1 of 1877.

THE INDIAN FOREST BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
   Extension.
2. Interpretation-clause.

CHAPTER II.

OF RESERVED FORESTS.

3. Power to reserve forests.
4. Demarcation of boundaries.
5. Notification by Local Government.
6. Bar of accrual of forest-rights.
7. Proclamation by Forest Settlement Officer.
8. Rights not claimed, extinguished.
9. Power to acquire land over which right is claimed.
10. Enquiry into claims.
11. Record to be made by Forest Settlement Officer.
12. Record where he admits claim.
13. Exercise of rights admitted or modified.

SECTIONS.

14. Commutation of rights.
15. Appeal from order passed under section 9, 10 or 13.
16. Power to appoint pleader on behalf of Government.
17. Notification declaring forest reserved.
18. Publication of such notification in neighbourhood of forest.
19. Reserved Forests constituted previous to passing of Act.
20. Formation and extension of Reserved Forests under Land Acquisition Act.
21. No right acquired over Reserved Forest except as here provided.
22. Rights not to be alienated.
23. Power to stop ways and water-courses in such forests.
24. Acts prohibited in such forests.
25. Power to declare forest no longer reserved.

CHAPTER III.

OF VILLAGE-FORESTS.

26. Demarcation of village-forests.

CHAPTER IV.

OF DISTRICT-FORESTS.

27. "District-forests" defined.
28. Power to issue notification—
    reserving trees,
    prohibiting collection of forest-produce,
    and breaking up or clearing of land.
29. Publication of such notification in neighbourhood.
30. Power to make rules regulating disposal of produce of district-forests.
31. Penalties for acts in contravention of notification under section 28.
32. Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

SECTIONS.

33. Protection of forests for special purposes.
34. Power to assume management of such forests.
35. Expropriation of forests in certain cases.

CHAPTER VI.

OF THE DUTY ON TIMBER.

36. Power to impose duty on timber.
Power to fix value for *ad valorem* duty.
37. Limit not to apply to royalty or purchase-money.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND FOREST-PRODUCE IN TRANSIT.

38. Power to make rules to regulate transit of forest-produce.
39. Penalty for breach of rules made under section 38.
40. Government and its officers not liable for damage to forest-produce at depôt.
41. All persons bound to aid in case of accident at depôt.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

42. Drift or stranded timber, or timber unmarked, or with marks obliterated, to become property of Government until title thereto proved, and may be collected accordingly.
43. Notice to claimants of drift-timber.
44. Procedure on claim preferred to such timber.
On rejection of claim to such timber, claimant may institute suit.
45. Disposal of unclaimed timber.
46. Government and its officers not liable for damage to such timber.
47. Payments to be made by claimant before timber is delivered to him.
48. Power to make rules and prescribe penalties.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

49. Disposal of property connected with cases under trial.
50. Forest-produce, tools, &c., when liable to confiscation.
51. Seizure of property liable to confiscation.
Application for confiscation.
52. Procedure on such application, when summons can be served.
53. Procedure when summons cannot be served.
54. Persons interested may oppose confiscation.
55. Order for confiscation.
56. Appeal from such order.
57. Property when to vest in Government.
58. Saving of power to release property seized.
59. Punishment for wrongful seizure.
60. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

B.—Of Criminal Procedure.

SECTIONS.

61. Power to arrest without warrant.
62. Power to prevent commission of offence.
63. Power to arrest person designing to commit offence.
64. Power to try offences summarily.
65. Operation of other laws not barred.
66. Power to compound offences.
67. Presumption that timber belongs to Government.

C.—Of Cattle-trespass.

68. Cattle Trespass Act, 1871, to apply.
69. Power to alter fines fixed by that Act.

D.—Miscellaneous.

70. Persons interested in forest bound to assist Forest and Police officers.
71. Local Government may confer additional powers.
72. Local Government may invest Forest officers with certain powers.
73. Additional powers to make rules.
74. Power to impose penalties for breach of rules.
75. Rules when to have force of law.
76. Management of forests the joint property of Government and other persons.
77. Recovery of money due to Government.
78. Lien on forest-produce for such money.
Power to sell such produce.
79. Bribing Forest officers.
80. Indemnity for acts done in good faith.
81. Forest officers not to trade.

A Bill to amend the law relating to the management and preservation of Government forests, to the transit of forest-produce and to the duty leviable on timber.

WHEREAS it is expedient to amend the law relating to the management and preservation of Government forests, to the transit of forest-produce and to the duty leviable on timber; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act shall be called "The Indian Forest Act, 1877:" Short title.

It shall come into force at once; Commencement.

And the Local Government may from time to time, with the previous sanction of the Governor General in Council, extend, by notification in the official Gazette, all or any of the provisions herein contained to all or any of the territories for the time being under its administration. Extension.

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

"Forest officer" means any person whom the Local Government may from time to time appoint by name, or as holding an office, to do "Forest officer."

(1) anything required by this Act or under any rule made under 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, roots, juice, cutch, bark, honey, wax, lac, caoutchouc, gum, wood-oil, resin, varnish, skins and horns:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act: "Forest-offence."

"Cattle" includes elephants, camels, buffaloes, bullocks, cows, 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.

3. The Local Government may from time to time constitute any forest or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a Reserved Forest in the manner hereinafter provided. Power to reserve forests.

4. Whenever it is proposed to constitute a Reserved Forest, and the limits of such Forest have not been defined by boundary-marks, and are not, in the opinion of the Local Government, already sufficiently defined by roads, rivers or other such boundaries, the Local Government may cause such limits to be demarcated in such manner as it thinks fit. Demarcation of boundaries.

5. When the Local Government has ascertained that the limits of such Forest are already sufficiently defined as aforesaid, or when such limits have been demarcated under section 4, it may publish a notification in the official Gazette— Notification by Local Government.

(*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.

6. During the interval between the publication of such notification and the date fixed by the notification under section 17, 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 clearings for cultivation or any other purpose shall be made in such forest. Bar of accrual of forest-rights.

7. When a notification has been issued under section 5, 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.

8. Any such right in respect of which no such notice is presented within the said period shall be deemed to be extinguished, unless the person claiming such right satisfies the Forest Settlement Officer that he had sufficient cause for not presenting the notice within such period. Rights not claimed, extinguished.

9. When any such notice is presented as aforesaid, the Forest Settlement Officer shall inquire into the merits of the claim, and may, in the case of a claim to or over any land, if he considers it proved and if he thinks fit to do so, pass an order to that effect and proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870, and may, in the case of a claim to rights of way or of pasture, or to forest-produce, proceed in the manner prescribed in sections 10 and 11. 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.

10. 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.

11. 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 Record to be made by Forest Settlement Officer.

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 5, in the habitual exercise of the right claimed, and

(*b*) 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.

12. 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 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. He shall also record whether the produce obtained by the exercise of such rights may be sold or bartered.

Exercise of rights admitted or modified.

13. 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*) 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; or

(*b*) 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

(*c*) 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, within such portions of the Reserved Forest and under such rules as may from time to time be prescribed by the Local Government.

Commutation of rights.

14. In case the Forest 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 Local Government 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 he thinks fit.

Appeal from order passed under section 9, 10 or 13.

15. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under section 9, 10 or 13, present an appeal from such order to such of the officers who hear appeals in cases relating to land-revenue as the Local Government may from time to time appoint by notification in the official Gazette: Provided that, where the Local Government has appointed (as it is hereby empowered to do) three persons (hereinafter called the Forest Court) to hear appeals from such orders, the appeal shall lie to such persons.

Every appeal under this section shall be made by petition in writing, and shall be delivered to and forwarded by the Forest Settlement Officer.

If the appeal be to the officer so appointed, the order passed thereon shall be communicated to the Forest Settlement Officer who shall forthwith carry out the same.

If the appeal be to the Forest Court, the 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 Local Government) be final, and the Forest Settlement Officer shall forthwith carry out such order.

Power to appoint pleader on behalf of Government.

16. The Local Government may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the appellate Court in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

17. When the following events have occurred (namely)—

(*a*) the period fixed under section 7 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 15 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 appellate Court; and

(*c*) all lands (if any) included in the forest, which the Forest Settlement Officer has, under section 9, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section 16 of that Act,

the Local Government may publish a notification in the official 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.

18. 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.

Reserved Forests constituted previous to passing of Act.

19. Any forest constituted a Reserved Forest under any law in force previous to the date on which this Act comes into force, shall be deemed to have been constituted a Reserved Forest under this Act:

Provided that, if any rights to or over any land or forest-produce are claimed in such Reserved Forest, the Local Government may direct that such claims shall be inquired into and settled in the manner provided by this Act.

Formation and extension of Reserved Forests under Land Acquisition Act.

20. 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.

No right acquired over Reserved Forest, except as here provided.

21. 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.

22. No right conferred under section 13, clause (*c*); shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government, 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 12.

Power to stop ways and water-courses in such forests.

23. The Forest officer may from time to time, with the previous sanction of the Local Government, stop any public or private way or water-course in a Reserved Forest, provided that he has already assigned or constructed another way or water-course (as the case may be) in lieu thereof, and that such other way or water-course is a reasonably convenient substitute for the way or water-course so stopped.

Acts prohibited in such forests.

24. Any person who—

(*a*) sets fire to a Reserved Forest, or kindles any fire therein in such manner as to endanger the same;

(*b*) kindles, keeps or carries any fire therein at such seasons as the Local Government may from time to time notify in this behalf;

(*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 tree or cutting or dragging any timber;

(*f*) fells, girdles, lops, taps or burns any tree therein, or strips off the bark or leaves from, or otherwise interferes with, the same;

(*g*) collects therein or removes therefrom any forest-produce;

(*h*) clears or breaks up any land therein for cultivation or any other purpose;

(*i*) hunts, shoots, fishes or sets snares therein in contravention of any rules which the Local Government may from time to time prescribe,

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 13, clause (*a*), or created by written grant or contract made by or on behalf of Government.

In any case of fire which has been caused wilfully, or which there is reason to believe has been so caused, in a Reserved Forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that the forest or any portion thereof may be closed for such period as it thinks fit. During the period of such closure the exercise of all rights to pasture or other forest-produce shall be suspended.

Power to declare forest no longer reserved.

25. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official 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 revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

Demarcation of village-forests.

26. The Local Government may assign any Reserved-forest or portion thereof, or any forest the property of Government, for the use of any villages situated in the vicinity of such forest. All forests so assigned shall be called Village-forests. The Local Government may make rules for regulating the management of Village-forests, prescribing the conditions under which the inhabitants of the villages for the use of which any such assignment is made 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 IV.

OF DISTRICT-FORESTS.

"District-forests" defined.

27. The Local Government may from time to time, by notification in the official Gazette, declare the provisions of this chapter applicable to any forest or waste-land which is not included in a Reserved Forest; but which is the property of Government, or is a forest over which the Government has proprietary rights.

The forests and waste-lands comprised in any such notification shall be called "District-Forests."

Power to issue notification—

28. The Local Government may from time to time, by notification in the official 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 date 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; and

and breaking up or clearing of land.

(*c*) the breaking up or clearing for cultivation, for building, for herding cattle or for any other purposes, any land in any such forest.

Publication of such notification in neighbourhood.

29. The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district of every notification issued under section 28 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.

30. The Local Government may from time to time make rules to regulate the following matters:—

(*a*) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce from the district-forests;

(*b*) the granting of 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*) the fees (if any) payable by the persons mentioned in clauses (*b*) and (*c*) for permission to cut such trees, or to collect and remove such timber or forest-produce;

(*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;

(*f*) the examination of produce passing out of the forest;

(*g*) the clearing and breaking up of land for cultivation or other purposes;

(*h*) the protection from fire of timber lying in district-forests;

(*i*) the cutting of grass and pasturing of cattle;

(*j*) hunting, shooting, fishing and setting snares in such forests.

Penalties for acts in contravention of notification under section 28.

31. Any person who—

(*a*) fells, girdles, lops, taps or burns any tree reserved under section 28, or strips off the bark or leaves from, or otherwise interferes with, any such tree; or

(*b*) breaks up or clears for cultivation or any other purpose, any land in any forest containing trees reserved as aforesaid, or sets fire to such forests; 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 28; or

(*h*) infringes any rule under section 30,

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 chapter to prohibit acts done in certain cases.

32. Nothing in this chapter or in any rule made under this chapter 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 30, or in the exercise of any right.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

Protection of forests for special purposes

33. The Local Government may, with the previous sanction of the Governor General in Council by notification in the official Gazette, regulate or prohibit the breaking up of land for cultivation or the clearing of the growth in any forest, when such regulation or prohibition appears necessary for any of the following purposes:

First.—For protection against storms, winds, rolling stones and avalanches:

Second.—For the preservation of the soil on the ridges and slopes, and in the valleys of mountain-ranges, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against shifting and moving sands:

Third.—For the maintenance of a water-supply in springs, rivers and tanks:

Fourth.—For the protection of roads, bridges, railways, and other lines of communication:

Fifth.—For the preservation of the public health.

Power to assume management of such forests.

34. In case of neglect of, or wilful disobedience to, any prohibition under section 33, the Local Government may, after notice in writing to the proprietor or other person interested in the forest, and considering his objections (if any), place the same under the control of a Forest officer, and may declare that all or any of the provisions of this Act relating to Reserved Forests shall apply to such forest.

The nett profits (if any) arising from the management of such forest shall be paid to the said proprietor or other person.

Expropriation of forests in certain cases.

35. In any case under this chapter in which the Local Government considers that, in lieu of placing the forest under the control of a Forest officer, the forest should be acquired for public purposes, the Local Government may proceed to acquire the same in the manner prescribed by the Land Acquisition Act, 1870.

CHAPTER VI.

OF THE DUTY ON TIMBER.

Power to impose duty on timber.

36. On all timber the produce of forests situated within British India or brought from any forest situated beyond the frontier, a duty may be levied in such manner, at such places and at such rates, 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 fix value for *ad valorem* duty.

In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, with the like sanction, from time to time fix by like notification the value on which such duty shall be assessed.

Limit not to apply to royalty or purchase-money.

37. Nothing in this chapter shall be deemed to limit the amount chargeable as purchase-money or royalty on any timber or forest-produce, notwithstanding that the same be levied on such timber or produce while in transit, in the same manner as duty is levied.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND FOREST-PRODUCE IN TRANSIT.

Power to make rules to regulate transit of forest-produce.

38. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and forest-produce in transit by land or sea, is vested in the Local Government, and it 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 India;

(*b*) prohibit the import, export or moving of such timber or other produce without a pass from the Forest officer, authorized to issue the same, 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, reporting 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; the conditions under which timber shall be brought to, stored at, and removed from, such depôts;

(*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;

(*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;

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, 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;

(*i*) regulate the use of property-marks for timber, provide for the registration of such marks and the time for which such registration shall hold good, limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

Penalty for breach of rules made under section 38.

39. The Local Government may prescribe penalties for the infringement of any rule made under section 38, by imprisonment for a term not exceeding six months, or by fine not exceeding five hundred rupees, or by both. Double penalties may be prescribed in cases where the offence is committed between sunset and sunrise, after preparation for resistance to lawful authority, or if the offender has been previously convicted of the same offence.

Government and its officers not liable for damage to forest-produce at depôt.

40. 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 38, or while detained elsewhere for the purposes of this Act, 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.

41. 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 render assistance to any Forest or Police officer demanding his aid in averting such danger and securing such property from damage.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

Drift or stranded timber or timber unmarked, or with marks obliterated to become property of Government until title thereto proved, and may be collected accordingly.

42. All timber and wood found adrift or stranded on any river, or off the sea-coast of any province to which this Act shall be extended, 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. Such timber may be collected by any Forest officer or other person entitled to collect the same by virtue of any rule made under section 48 and may be brought to such depôts as the Forest officer may from time to time notify as depôts for the reception of drift-timber.

Notice to claimants of drift-timber.

43. Public notice shall from time to time be given by the Forest officer, of timber collected under section 42. Such notice shall contain a description of the timber and shall require any person having a claim to the possession of the same to present to such officer within three months from the date of such notice a written statement of such claim.

Procedure on claim preferred to such timber.

44. 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.

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.

45. If no such statement is presented as aforesaid or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section 43, 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 44, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section 44, in such other person free from all encumbrances of every description.

Disposal of unclaimed 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, 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. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest officer or other person entitled to receive it such sums on account of the collection thereof as may be due under any rule made in pursuance of section 48.

Payments to be made by claimant before timber is delivered to him.

48. The Local Government may from time to time make rules to regulate the following matters, (namely) :—

Power to make rules and prescribe penalties.

(*a*) the salving and collection of timber or of certain kinds of timber which may be floating loose and unrafted, or may be sunk, stranded or beached in any river or on the sea-coast;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting and storing such timber;

(*d*) the use and registration of marking-hammers.

The Local Government may from time to time prescribe for the infringement of any rule made under this section the penalty of imprisonment for a term which may extend to six months, or a fine which may extend to five hundred rupees, or both.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

49. When the trial of any forest-offence is concluded, the Court may make such order as it thinks fit for the disposal of any timber or forest-produce, the property of Government, in respect of which any offence has been committed.

Disposal of property connected with cases under trial.

50. All timber or forest-produce which is not the property of Government and 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.

Forest-produce, tools, &c., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

51. When there is reason to believe that any property is liable to confiscation under section 50 for any offence, it may be seized by any Police or Forest officer.

Seizure of property liable to 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.

Application for confiscation.

52. If on receiving an application under section 51, 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 summons to be served in manner prescribed by the Code of Criminal Procedure on the owner or person found in possession of such property, and on his appearance pursuant to such summons, or in default thereof, shall examine into the cause of the seizure and, after hearing such evidence as the parties respectively may produce, may pass an order for the confiscation of the property or for its release.

Procedure on such application, when summons can be served.

53. Where the summons cannot be served, the Magistrate shall cause a notice of the application for confiscation to be affixed at such place as he thinks fit.

Procedure when summons cannot be served.

54. Within one month from the date on which such notice was affixed, any person may present a petition to the Magistrate claiming to be heard in opposition to the application.

Persons interested may oppose confiscation.

55. 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.

The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any articles seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such articles if they had not been sold.

56. The officer who made the seizure under section 51, or any of his official superiors, or any person claiming to be interested in the property so seized, 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.

57. When an order for the confiscation of any property has been passed under section 52 or 55, as the case may be, and the period limited by section 56 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.

58. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 51.

Saving of power to release property seized.

59. 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.

60. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

Penalty for counterfeiting or defacing marks on trees and timber and for altering 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, detroys 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.

61. 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.

62. 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.

63. 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.

64. The Magistrate of the district and any Magistrate of the first class specially empowered in this behalf by the Local Government 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.

65. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Operation of other laws not barred.

66. The Local Government may from time to time, by notification in the official Gazette, empower any Forest officer of such grade as the Local Government may from time to time direct, to accept from any person charged with any forest-offence other than an offence under section 60 or section 61 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.

67. 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.

68. Cattle trespassing in a reserved forest, or doing damage to any trees reserved under section 32, 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.

69. The Local Government 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 68 of this Act, such fines as it thinks fit, but not exceeding the following, that is to say :—

Power to alter fines fixed by that Act.

For each elephant	Ten rupees.
For each buffalo	Two "
For each camel, horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	One rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid ...	Eight annas.

D.—Miscellaneous.

70. 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 is extended, 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 furnish 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.

71. The Local Government may, subject to any restrictions from time to time imposed by the Governor General in Council, invest a Forest Settlement Officer, 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 territory to which this Act has been extended, or in any class of cases, that is to say:—

Local Government 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 the exercise of any power or the performance of any duty to a subordinate officer.

72. The Local Government may invest any Forest officer by name, or as holding an office, with the following powers, that is to say:—

Local Government may invest Forest officers with certain powers.

(*a*) to issue a search-warrant under chapter XXVII of the Code of Criminal Procedure;

(*b*) to hold an enquiry into forest-offences, and, in the course of such enquiry, to record evidence on oath.

Such evidence shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

73. In addition to the other rules which the Local Government is hereby empowered to make, it may from time to time make rules:—

Additional powers to make rules.

(*a*) 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

(*b*) generally to carry out the provisions of this Act.

74. The Local Government may, in making any rule under this Act for breach of which no special penalty is provided, attach to the breach of it, in addition to any other consequences that would ensue therefrom, the punishment on conviction before a Magistrate of imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both.

Power to impose penalties for breach of rules.

75. All rules made by the Local Government under this Act shall, when sanctioned by the Governor General in Council, be published in the official 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.

76. If the Government and any person be jointly interested in any forest, or in the whole or any part of the produce thereof, the Government may from time to time either

Management of forests the joint property of Government and other persons.

(*a*) undertake the management of such forest or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest or produce by the person so jointly interested as it deems necessary for the conservation of the forest or produce and the interests of all parties therein.

When the Government undertakes under clause (*a*) of this section the management of any forest, it may, from time to time, by notification in the official Gazette, declare that all or any of the provisions herein contained as to Reserved Forests shall apply to such forest, and thereupon such provisions shall apply accordingly.

77. 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 of land-revenue under the law for the time being in force.

Recovery of money due to Government.

78. 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.

79. All Forest officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Bribing Forest officers.

80. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Indemnity for acts done in good faith.

81. Except with the permission in writing of the Local Government no Forest officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

Forest officers not to trade.

STATEMENT OF OBJECTS AND REASONS.

The insufficiency of the present general Forest-law (Act VII of 1865) is universally admitted.

The necessity for legislation regarding forests in the Bombay Presidency, to which Act VII of 1865 has never been applied, has long been apparent, and has been urged by the Local Government. Thus, the want of legal powers to control timber in transit, to require it to be covered by a pass, and to levy duty on foreign timber, causes the loss of several lákhs of rupees annually, and a regular machinery for enquiring into and adjudicating upon private rights claimed in forests and reserves would be equally advantageous to the Government and the people.

The case of the Madras Presidency is generally similar to that of the other Provinces, and there is no doubt that the application to it of an improved Forest-law will be very beneficial.

A general Forest Bill has been under consideration since 1868, and more than one draft has been circulated to the various Local Governments. The present draft is for the most part the work of the Inspector General of Forests with the assistance of the Forest Conservators of Bengal and the Panjáb.

It will be observed that this Bill follows in a great measure the Bill for Burma, which has recently been introduced into the Legislative Council of the Governor General, and that provision is made in section 1 for the non-extension to particular Provinces of any portions of it which may have no local application or utility. The present Bill is divided into nine Chapters, dealing respectively with the following matters:—I, Preliminary; II, Reserved Forests; III, Village-Forests; IV, District-Forests; V, Forests not the property of Government; VI, Duty on Timber; VII, Control of Timber and Forest-produce in Transit; VIII, Collection of drift and stranded Timber; IX, Penalties, Procedure, etc.

In Chapter II will be found provisions for ascertaining, securing and commuting the rights of private persons in any forest which it is deemed necessary to reserve.

Chapters III and IV contain provisions regarding forest-lands belonging to Government or in which Government has proprietary rights, which it is deemed necessary to subject, as District or Village-forests, to regulations less stringent than those indispensable for Reserved Forests.

Chapter V regulates, in a manner analogous to that of the law of France and other European nations, forests and lands not the property of Government for objects affecting the safety and well-being of the public at large.

Chapters VI and VII provide for the levy of duty on timber in transit in certain parts of India, and for the prevention of illicit abstraction of timber from the Government forests.

T. C. HOPE.

The 22nd January 1877.

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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 2 OF 1877.

THE BROACH AND KAIRA INCUMBERED ESTATES BILL, 1877.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
2. Act No. XV of 1871 repealed.
3. Interpretation-clause.

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. Application for benefit of Act.
5. Order to enquire.
6. Verified statement to be submitted.
   False averments in statement.
7. Report of enquiry and proceedings thereon.

III.—OF THE ORDER OF MANAGEMENT.

8. "Order of management," to what it extends.
   Commencement of management.
9. Effect of order of management.
   Stay of pending proceedings, &c.
   Bar of fresh proceedings.
   The debtor incompetent—
   to contract debts,
   to encumber or alienate property,
   to grant receipts for rent.
10. Manager to have powers of owner and to receive rents and profits
    to have powers of [illegible] for their recovery.
11. Manager to pay therefrom—
    costs of management and repairs,
    Government revenue, &c.,
    rent due to superior holder,
    allowance for maintenance of debtor,
    cost of improvements, &c.
    Residue how disposed of.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. Notice to claimants against debtor.
    Copies of notice to be exhibited.
13. Claim to contain full particulars.
    Documents to be given up.
    Entries in books.
    Power to exclude documents not produced.
14. Claim not duly notified to be barred.
    Admission of claims within further period of six months.
15. Determination of debts and liabilities.
16. Power to rank debts and to fix interest.
17. Scheme for liquidation.
    Provisions of scheme.

SECTIONS.
18. Proceedings of Commissioner on submission of scheme.
19. Power to relinquish management.

V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.
20. Effects of sanctioning scheme.
21. Power to remove mortgagee in possession.
22. Power to inquire into consideration given for leases.
23. Power to lease.
24. Power to raise money by mortgage or sale.
25. Manager's receipt, a discharge.
26. Termination of management. Restoration of owner.
27. Death of debtor during management.
28. Mortgages, &c., made by restored Thákur valid only for his life.

VI.—OF APPEAL AND REVISION.
29. Appeal.
30. Power to call for proceedings and pass order thereon.

VII.—MISCELLANEOUS.
31. Power to make rules.
32. Power to appoint new manager.
33. Managers to be public servants.
34. Investigation, a judicial proceeding.
35. Power to summon witnesses and compel production of documents.
36. Bar of suits.
37. Saving of jurisdiction of Courts in Broach and Kaira in respect of certain suits.
38. Amendment of Bombay Act VI of 1862.
39. Exemption of certain Thákurs from certain provisions of Act.

A Bill to relieve from Incumbrances the estates of Thákurs in Broach and Kaira.

WHEREAS many Thákurs in Broach and Kaira 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.

1. This Act may be called "The Broach and Kaira Incumbered Estates Act, 1877:"

Short title.

Commencement.

And it shall come into force on the passing thereof.

2. Act No. XV of 1871 (*to relieve from incumbrances the estates of Thákurs in Broach*) is repealed: but all applications and appointments and rules made, all notices published, and all other things duly done, under the said Act shall be deemed to have been respectively made, published and done under this Act.

Act No. XV of 1871 repealed.

Interpretation-clause.

3. In this Act—

"Thákur" means also taluqdár, jágírdár, kasbátí, and such other classes of holders of estates as the Local Government may, with the previous sanction of the Governor General in Council, declare to be Thákurs for the purposes of this Act:

"Thákur."

"Heir" means the person for the time being entitled as heir to a Thákur:

"Heir."

"Commissioner" means the Commissioner in Broach or Kaira, as the case may be.

"Commissioner."

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. At any time within twelve months after the passing of this Act, any Thákur,

Application for benefit of Act.

or any person who would be sole heir or one of the heirs to such Thákur if he then died intestate,

may apply, in writing, to the Commissioner, stating that such Thákur 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 Thákur 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.

5. When any such application is made by or on behalf of a Thákur, 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.

Order to enquire.

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.

6. When an enquiry has been directed under section 4, 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.

7. The officer so appointed, after making enquiry, 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 *Bombay Government 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.

8. 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.

9. 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 7 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—

(*a*) to enter into any contract involving him in pecuniary liability, or

to contract debts,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

to encumber or alienate property,

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom:

to grant receipts for rent.

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.

10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents and profits due in respect of the property under management,

Manager to have powers of owner and 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 Thákur, all the powers possessed by a Collector, under the law for the time being in force, for securing and recovering land-revenue due to Government:

to have powers of Collector for their recovery.

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

11. From the sums received or recovered under section 10, the manager shall pay—

Manager to pay therefrom—

First, the costs of the management, including the costs of necessary repairs;

costs of management and repairs,

Secondly, 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.,

Thirdly, the rent (if any) due to the jágírdár or other superior holder in respect of the said property;

rent due to superior holder,

Fourthly, 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,

Fifthly, the cost of such improvements of the said property as he thinks necessary, and are approved by the Commissioner.

cost of improvements, &c.

The residue shall be retained by the manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section 8 other than those so due or incurred to Government.

Residue how disposed of.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. On the publication of the order of management, the manager shall publish in the *Bombay Government Gazette* a notice in English and Gujarátí 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 Mámlatdárs' 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.

Entries in books.

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.

Power to exclude 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.

Claim not duly notified to be barred.

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 18, clause (*d*), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Admission of claims within further period of six months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 11 the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determination of debts and liabilities.

15. The manager shall inquire into the history and merits of every claim received under sections 12 and 14, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to rank debts and to fix interest.

16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof.

Scheme for liquidation.

17. 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) shewing 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.

Provisions of scheme.

Every such scheme shall further provide for the continuance of the payments to be made by the manager under section 11, and may 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.

Proceedings of Commissioner on submission of scheme.

18. The Commissioner may—

(*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.

Power to relinquish management.

19. At any time before he has sanctioned a liquidation-scheme under section 18, the Commissioner may, by an order published in the *Bombay Government Gazette*, direct that on a date fixed by such order the management shall be relinquished.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession thereof, subject to any leases made under section 10;

(*c*) any residue of the rents and profits of the said property, retained under the last clause of section 10, shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section 9, and the debts and liabilities barred by section 14, 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.

Effects of sanctioning scheme.

20. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the Local Government may from time to time by rule direct; and thereupon—

1*st*, all proceedings, processes, executions and attachments stayed or suspended under section 9 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.

Power to remove mortgagee in possession.

21. 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.

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.

Power to inquire into consideration given for leases.

22. 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 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, with the consent of the Commissioner, 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 lease.

23. Subject to the rules made under section 31, 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 raise money by mortgage or sale.

24. 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—

(*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.

Manager's receipt, a discharge.

25. 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.

Termination of management.

26. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged, the manager shall publish in the *Bombay Government Gazette* a notice fixing a date for the termination of the management.

Restoration of owner.

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 24, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections 10, 23 and 24.

Death of debtor during management.

27. 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—

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 9; 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 said succession.

Mortgages, &c., made by restored Thákur valid only for his life.

28. When a Thákur has been restored under section 26 to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such Thákur, shall be valid as to any time beyond his natural life.

VI.—Of Appeal and Revision.

Appeal.

29. An appeal against any decision or order under sections 14, 15, 16 and 22 and imposing a fine or imprisonment in exercise of the powers conferred by section 35, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call for proceedings and pass order thereon.

30. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions of this Act, as he thinks fit.

VII.—Miscellaneous.

Power to make rules.

31. The Local Government may, from time to time, make rules consistent with this Act—

(*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 (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities;

(*d*) 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

(*e*) generally to carry out the provisions of this Act.

Such rules shall be published in the *Bombay Government Gazette*, and when so published shall have the force of law.

Power to appoint new manager.

32. The Local Government 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.

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, a judicial proceeding.

35. 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.

36. 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.

37. Nothing in this Act precludes the Courts in Broach and Kaira 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 Broach and Kaira in respect of certain suits.

38. And whereas doubts have been raised as to the validity of Bombay Act No. VI of 1862 (*for the amelioration of the condition of Taluqdárs in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the said Act, so far as it purports to affect the said High Court, shall be deemed to be and to have been valid.

Amendment of Bombay Act VI of 1862.

39. Nothing in section 9 shall be deemed to render any of the following Thákurs, namely, the Thákur of Ahmod, the Thákur of Sarod, the Thákur of Kerwára, the Thákur of Dehej and the Thákur of Janiádra incompetent to enter into contracts involving him in pecuniary liability, nor shall anything in section 28 apply to any of the said Thákurs:

Exemption of certain Thákurs from certain provisions of Act.

Provided that, if any such Thákur has, since the scheme for the settlement of his debts and liabilities was approved under section 11 of the said Act No. XV of 1871, entered into any contract involving him in pecuniary liability exceeding the average annual income derived during the previous five years from his immoveable property after deducting therefrom the land-tax and other dues of Government, the Local Government may, by notification in the *Bombay Government Gazette*, declare that the exemption made by the former part of this section shall cease in his case, and thereupon such exemption shall cease accordingly.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to relieve from incumbrances the estates of Thákurs in Kaira. The reasons for the measure are substantially the same as those which led to the introduction of similar measures for the relief of landholders in Oudh, Chutiá Nágpur, Ahmadábád, Broach, and Sindh.

The Bill repeals and re-enacts the substance of the Broach Act XV of 1871.

T. C. HOPE.

The 24th January 1877.

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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in one month:—

No. 3 OF 1877.

A Bill to restrict the transport of Salt by Sea.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Transport of Salt Act, 1877:"

Short title.

It extends to the whole of British India and, further, applies—

Extent.

(*a*) to all European British subjects of Her Majesty within the territorial jurisdiction of Princes and States in India in alliance with Her Majesty;

(*b*) to all Native Indian subjects of Her Majesty, wherever they may be;

And it shall come into force on such day as the Governor General in Council may, by notification in the *Gazette of India*, direct in this behalf.

Commencement.

2. When any salt is carried by sea in any vessel other than a square-rigged vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Penalty for carrying salt in certain vessels.

3. Nothing in section two applies to—

Exceptions.

(*a*) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873;

(*b*) salt covered by a pass granted by any officer whom the Governor General in Council may appoint in this behalf;

(*c*) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor General in Council may from time to time exempt from the operation of section two.

4. When any officer of Government empowered by the Governor General in Council or the Local Government, whether by name or office, to act under this section, has reason to suspect that any salt is being carried, or is about to be, or has recently been, carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by section two, he may—

Power of stoppage, search and arrest.

(*a*) require such vessel to be brought to and enter and search the same;

(*b*) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(*c*) arrest without a warrant any person on board of such vessel who he has reason to suspect is punishable under section two.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section four,

Penalties for resisting officer.

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

6. Every vessel in which salt is carried in contravention of this Act, and the cargo on board such vessel, shall be liable to confiscation.

Confiscation of vessel and cargo.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged (*a*) by the Collector of Customs, or (*b*) by such other officer as the Local Government may from time to time appoint in this behalf.

Whenever any Customs officer is satisfied that any article is liable to confiscation under this section, he may seize such article and shall at once report the seizure to his superior officer for the information of the Collector of Customs or such other officer as aforesaid, who may, if satisfied on such report, or after making such enquiry as he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Adjudication of offences.

8. For the purpose of the adjudication of penalties under section two, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.

Jurisdiction.

STATEMENT OF OBJECTS AND REASONS.

There is no law at present to prevent salt shipped from Bombay without payment of duty and destined for Madras or Calcutta, being surreptitiously landed at any port on the coast and smuggled salt being taken in lieu thereof and carried on to the port for which the vessel was cleared.

Moreover, there is nothing to prevent foreign salt or any other salt on which no duty has been made, being landed at any of our ports throughout our seaboard. Both of these defects have led to an immense amount of smuggling, which it is important to check without further delay. The present Bill therefore proposes that no vessel of less than three hundred tons shall be allowed to carry salt except under certain very strict conditions, and that vessels may be brought to and searched, regarding which suspicion exists that they are engaged in carrying on contraband traffic.

T. C. HOPE.

The 24th January 1877.

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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in a week:—

No. 4 OF 1877.

A Bill to amend Act No. XIII of 1875.

WHEREAS it is expedient to define the expression 'High Court' as used in Act No. XIII of 1875 *(to amend the law relating to Probates and Letters of Administration)*, sections 2, 3 and 4; It is hereby enacted as follows:—

Preamble.

1. The expression 'High Court' in each of the said sections shall mean, and be deemed to have always meant—

'Chief Court' defined in Act XIII of 1875, sections 2, 3 and 4.

(*a*) a High Court for the time being established under the twenty-fourth and twenty-fifth of Victoria, chapter 104:

(*b*) the Chief Court of the Panjáb:

(*c*) the Court of the Recorder of Rangoon.

STATEMENT OF OBJECTS AND REASONS.

Act XIII of 1875 provides that probates or letters of administration granted by a 'High Court' shall (unless otherwise directed by the grant) have like effect throughout the whole of British India, and that, whenever such a grant is made, the Registrar shall send to each of the other High Courts a certificate of the grant.

It has been found that the burden thus imposed on the High Courts is excessive. For 'High Court' is defined to mean (both in the Succession Act and in the General Clauses Act, 1868) 'the highest Civil Court of Appeal,' and of such Courts there are, besides the High Courts properly so called, a large number in outlying parts of British India.

The remedy which the present Bill proposes to apply is to limit, in Act XIII of 1875, the expression 'High Court' to (*a*) the four High Courts properly so called, (*b*) the Panjáb Chief Court, and (*c*) the Court of the Recorder of Rangoon.

A. HOBHOUSE.

The 8th January 1877.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 10, 1877. { 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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in two months :—

No. 1 OF 1877.

THE INDIAN FOREST BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
   Extension.
2. Interpretation-clause.

CHAPTER II.

OF RESERVED FORESTS.

3. Power to reserve forests.
4. Demarcation of boundaries.
5. Notification by Local Government.
6. Bar of accrual of forest-rights.
7. Proclamation by Forest Settlement Officer.
8. Rights not claimed, extinguished.
9. Power to acquire land over which right is claimed.
10. Enquiry into claims.
11. Record to be made by Forest Settlement Officer.
12. Record where he admits claim.
13. Exercise of rights admitted or modified.
14. Commutation of rights.
15. Appeal from order passed under section 9, 10 or 13.
16. Power to appoint pleader on behalf of Government.
17. Notification declaring forest reserved.
18. Publication of such notification in neighbourhood of forest.
19. Reserved Forests constituted previous to passing of Act.
20. Formation and extension of Reserved Forests under Land Acquisition Act.
21. No right acquired over Reserved Forest except as here provided.
22. Rights not to be alienated.
23. Power to stop ways and water-courses in such forests.
24. Acts prohibited in such forests.
25. Power to declare forest no longer reserved.

CHAPTER III.

OF VILLAGE-FORESTS.

26. Demarcation of village-forests.

CHAPTER IV.

OF DISTRICT-FORESTS.

27. "District-forests" defined.
28. Power to issue notification—
    reserving trees,
    prohibiting collection of forest-produce,
    and breaking up or clearing of land.
29. Publication of such notification in neighbourhood.
30. Power to make rules regulating disposal of produce of district-forests.
31. Penalties for acts in contravention of notification under section 28.
32. Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

SECTIONS.

33. Protection of forests for special purposes.
34. Power to assume management of such forests.
35. Expropriation of forests in certain cases.

CHAPTER VI.

OF THE DUTY ON TIMBER.

36. Power to impose duty on timber.
Power to fix value for *ad valorem* duty.
37. Limit not to apply to royalty or purchase-money.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND FOREST-PRODUCE IN TRANSIT.

38. Power to make rules to regulate transit of forest-produce.
39. Penalty for breach of rules made under section 38.
40. Government and its officers not liable for damage to forest-produce at depôt.
41. All persons bound to aid in case of accident at depôt.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

42. Drift or stranded timber, or timber unmarked, or with marks obliterated, to become property of Government until title thereto proved, and may be collected accordingly.
43. Notice to claimants of drift-timber.
44. Procedure on claim preferred to such timber. On rejection of claim to such timber, claimant may institute suit.
45. Disposal of unclaimed timber.
46. Government and its officers not liable for damage to such timber.
47. Payments to be made by claimant before timber is delivered to him.
48. Power to make rules and prescribe penalties.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

49. Disposal of property connected with cases under trial.
50. Forest-produce, tools, &c., when liable to confiscation.
51. Seizure of property liable to confiscation. Application for confiscation.
52. Procedure on such application, when summons can be served.
53. Procedure when summons cannot be served.
54. Persons interested may oppose confiscation.
55. Order for confiscation.
56. Appeal from such order.
57. Property when to vest in Government.
58. Saving of power to release property seized.
59. Punishment for wrongful seizure.
60. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

B.—Of Criminal Procedure.

61. Power to arrest without warrant.
62. Power to prevent commission of offence.
63. Power to arrest person designing to commit offence.
64. Power to try offences summarily.
65. Operation of other laws not barred.
66. Power to compound offences.
67. Presumption that timber belongs to Government.

C.—Of Cattle-trespass.

68. Cattle Trespass Act, 1871, to apply.
69. Power to alter fines fixed by that Act.

D.—Miscellaneous.

70. Persons interested in forest bound to assist Forest and Police officers.
71. Local Government may confer additional powers.
72. Local Government may invest Forest officers with certain powers.
73. Additional powers to make rules.
74. Power to impose penalties for breach of rules.
75. Rules when to have force of law.
76. Management of forests the joint property of Government and other persons.
77. Recovery of money due to Government.
78. Lien on forest-produce for such money. Power to sell such produce.
79. Bribing Forest officers.
80. Indemnity for acts done in good faith.
81. Forest officers not to trade.

A Bill to amend the law relating to the management and preservation of Government forests, to the transit of forest-produce and to the duty leviable on timber.

Preamble.

WHEREAS it is expedient to amend the law relating to the management and preservation of Government forests, to the transit of forest-produce and to the duty leviable on timber; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act shall be called "The Indian Forest Act, 1877:"

Commencement.

It shall come into force at once;

Extension.

And the Local Government may from time to time, with the previous sanction of the Governor General in Council, extend, by notification in the official Gazette, all or any of the provisions herein contained to all or any of the territories for the time being under its administration.

Interpretation-clause.

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

"Forest officer." "Forest officer" means any person whom the Local Government may from time to time appoint by name, or as holding an office, to do

(1) anything required by this Act or under any rule made under 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, roots, juice, cutch, bark, honey, wax, lac, caoutchouc, gum, wood-oil, resin, varnish, skins and horns:

"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, bullocks, cows, 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.

3. The Local Government may from time to time constitute any forest or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a Reserved Forest in the manner hereinafter provided..

Demarcation of boundaries.

4. Whenever it is proposed to constitute a Reserved Forest, and the limits of such Forest have not been defined by boundary-marks, and are not, in the opinion of the Local Government, already sufficiently defined by roads, rivers or other such boundaries, the Local Government may cause such limits to be demarcated in such manner as it thinks fit.

Notification by Local Government.

5. When the Local Government has ascertained that the limits of such Forest are already sufficiently defined as aforesaid, or when such limits have been demarcated under section 4, it may publish a notification in the official 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.

Bar of accrual of forest-rights.

6. During the interval between the publication of such notification and the date fixed by the notification under section 17, 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 clearings for cultivation or any other purpose shall be made in such forest.

Proclamation by Forest Settlement Officer.

7. When a notification has been issued under section 5, 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.

8. Any such right in respect of which no such notice is presented within the said period shall be deemed to be extinguished, unless the person claiming such right satisfies the Forest Settlement Officer that he had sufficient cause for not presenting the notice within such period.

Power to acquire land over which right is claimed.

9. When any such notice is presented as aforesaid, the Forest Settlement Officer shall inquire into the merits of the claim, and may, in the case of a claim to or over any land, if he considers it proved and if he thinks fit to do so, pass an order to that effect and proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870, and may, in the case of a claim to rights of way or of pasture, or to forest-produce, proceed in the manner prescribed in sections 10 and 11.

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.

10. 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.

11. 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 5, in the habitual exercise of the right claimed, and

(*b*) 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.

12. 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 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. He shall also record whether the produce obtained by the exercise of such rights may be sold or bartered.

Exercise of rights admitted or modified.

13. 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*) 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; or

(*b*) 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

(*c*) 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, within such portions of the Reserved Forest and under such rules as may from time to time be prescribed by the Local Government.

Commutation of rights.

14. In case the Forest 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 Local Government 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 he thinks fit.

Appeal from order passed under section 9, 10 or 13.

15. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under section 9, 10 or 13, present an appeal from such order to such of the officers who hear appeals in cases relating to land-revenue as the Local Government may from time to time appoint by notification in the official Gazette: Provided that, where the Local Government has appointed (as it is hereby empowered to do) three persons (hereinafter called the Forest Court) to hear appeals from such orders, the appeal shall lie to such persons.

Every appeal under this section shall be made by petition in writing, and shall be delivered to and forwarded by the Forest Settlement Officer.

If the appeal be to the officer so appointed, the order passed thereon shall be communicated to the Forest Settlement Officer who shall forthwith carry out the same.

If the appeal be to the Forest Court, the 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 Local Government) be final, and the Forest Settlement Officer shall forthwith carry out such order.

Power to appoint pleader on behalf of Government.

16. The Local Government may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the appellate Court in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

17. When the following events have occurred (namely)—

(*a*) the period fixed under section 7 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 15 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 appellate Court; and

(*c*) all lands (if any) included in the forest, which the Forest Settlement Officer has, under section 9, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section 16 of that Act,

the Local Government may publish a notification in the official 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.

18. 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.

Reserved Forests constituted previous to passing of Act.

19. Any forest constituted a Reserved Forest under any law in force previous to the date on which this Act comes into force, shall be deemed to have been constituted a Reserved Forest under this Act:

Provided that, if any rights to or over any land or forest-produce are claimed in such Reserved Forest, the Local Government may direct that such claims shall be inquired into and settled in the manner provided by this Act.

Formation and extension of Reserved Forests under Land Acquisition Act.

20. 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.

No right acquired over Reserved Forest, except as here provided.

21. 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.

22. No right conferred under section 13, clause (*c*), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government, 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 12.

Power to stop ways and water-courses in such forests.

23. The Forest officer may from time to time, with the previous sanction of the Local Government, stop any public or private way or water-course in a Reserved Forest, provided that he has already assigned or constructed another way or water-course (as the case may be) in lieu thereof, and that such other way or water-course is a reasonably convenient substitute for the way or water-course so stopped.

Acts prohibited in such forests.

24. Any person who—

(*a*) sets fire to a Reserved Forest, or kindles any fire therein in such manner as to endanger the same;

(*b*) kindles, keeps or carries any fire therein at such seasons as the Local Government may from time to time notify in this behalf;

(*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 tree or cutting or dragging any timber;

(*f*) fells, girdles, lops, taps or burns any tree therein, or strips off the bark or leaves from, or otherwise interferes with, the same;

(*g*) collects therein or removes therefrom any forest-produce;

(*h*) clears or breaks up any land therein for cultivation or any other purpose;

(*i*) hunts, shoots, fishes or sets snares therein in contravention of any rules which the Local Government may from time to time prescribe,

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 13, clause (*a*), or created by written grant or contract made by or on behalf of Government.

In any case of fire which has been caused wilfully, or which there is reason to believe has been so caused, in a Reserved Forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that the forest or any portion thereof may be closed for such period as it thinks fit. During the period of such closure the exercise of all rights to pasture or other forest-produce shall be suspended.

Power to declare forest no longer reserved.

25. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official 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 revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

Demarcation of village-forests.

26. The Local Government may assign any Reserved-forest or portion thereof, or any forest the property of Government, for the use of any villages situated in the vicinity of such forest. All forests so assigned shall be called Village-forests. The Local Government may make rules for regulating the management of Village-forests, prescribing the conditions under which the inhabitants of the villages for the use of which any such assignment is made 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 IV.

OF DISTRICT-FORESTS.

"District-forests" defined.

27. The Local Government may from time to time, by notification in the official Gazette, declare the provisions of this chapter applicable to any forest or waste-land which is not included in a Reserved Forest; but which is the property of Government, or is a forest over which the Government has proprietary rights.

The forests and waste-lands comprised in any such notification shall be called "District-Forests."

Power to issue notification—

28. The Local Government may from time to time, by notification in the official 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 date 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; and

and breaking up or clearing of land.

(*c*) the breaking up or clearing for cultivation, for building, for herding cattle or for any other purposes, any land in any such forest.

29. The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district of every notification issued under section 28 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest to which such notification applies.

Publication of such notification in neighbourhood.

30. The Local Government may from time to time make rules to regulate the following matters:—

Power to make rules regulating disposal of produce of district-forests.

(*a*) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce from the district-forests;

(*b*) the granting of 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*) the fees (if any) payable by the persons mentioned in clauses (*b*) and (*c*) for permission to cut such trees, or to collect and remove such timber or forest-produce;

(*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;

(*f*) the examination of produce passing out of the forest;

(*g*) the clearing and breaking up of land for cultivation or other purposes;

(*h*) the protection from fire of timber lying in district-forests;

(*i*) the cutting of grass and pasturing of cattle;

(*j*) hunting, shooting, fishing and setting snares in such forests.

Penalties for acts in contravention of notification under section 28.

31. Any person who—

(*a*) fells, girdles, lops, taps or burns any tree reserved under section 28, or strips off the bark or leaves from, or otherwise interferes with, any such tree; or

(*b*) breaks up or clears for cultivation or any other purpose, any land in any forest containing trees reserved as aforesaid, or sets fire to such forests; 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 28; or

(*h*) infringes any rule under section 30,

shall be punished with imprisonment which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

32. Nothing in this chapter or in any rule made under this chapter 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 30, or in the exercise of any right.

Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

33. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, regulate or prohibit the breaking up of land for cultivation or the clearing of the growth in any forest, when such regulation or prohibition appears necessary for any of the following purposes:

Protection of forests for special purposes

First.—For protection against storms, winds, rolling stones and avalanches:

Second.—For the preservation of the soil on the ridges and slopes, and in the valleys of mountain-ranges, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against shifting and moving sands:

Third.—For the maintenance of a water-supply in springs, rivers and tanks:

Fourth.—For the protection of roads, bridges, railways, and other lines of communication:

Fifth.—For the preservation of the public health.

34. In case of neglect of, or wilful disobedience to, any prohibition under section 33, the Local Government may, after notice in writing to the proprietor or other person interested in the forest, and considering his objections (if any), place the same under the control of a Forest officer, and may declare that all or any of the provisions of this Act relating to Reserved Forests shall apply to such forest.

Power to assume management of such forests.

The nett profits (if any) arising from the management of such forest shall be paid to the said proprietor or other person.

35. In any case under this chapter in which the Local Government considers that, in lieu of placing the forest under the control of a Forest officer, the forest should be acquired for public purposes, the Local Government may proceed to acquire the same in the manner prescribed by the Land Acquisition Act, 1870.

Expropriation of forests in certain cases.

CHAPTER VI.

OF THE DUTY ON TIMBER.

36. On all timber the produce of forests situated within British India or brought from any forest situated beyond the frontier, a duty may be levied in such manner, at such places and at such rates, 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 impose duty on timber.

In every case in which such duty is directed to be levied *ad valorem*, the Local Government 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.

37. Nothing in this chapter shall be deemed to limit the amount chargeable as purchase-money or royalty on any timber or forest-produce, notwithstanding that the same be levied on such timber or produce while in transit, in the same manner as duty is levied.

Limit not to apply to royalty or purchase-money.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND FOREST-PRODUCE IN TRANSIT.

38. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and forest-produce in transit by land or sea, is vested in the Local Government, and it 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 India;

(*b*) prohibit the import, export or moving of such timber or other produce without a pass from the Forest officer, authorized to issue the same, 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, reporting 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; the conditions under which timber shall be brought to, stored at, and removed from, such depôts;

(*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;

(*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;

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, 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;

(*i*) regulate the use of property-marks for timber, provide for the registration of such marks and the time for which such registration shall hold good, limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

39. The Local Government may prescribe penalties for the infringement of any rule made under section 38, by imprisonment for a term not exceeding six months, or by fine not exceeding five hundred rupees, or by both. Double penalties may be prescribed in cases where the offence is committed between sunset and sunrise, after preparation for resistance to lawful authority, or if the offender has been previously convicted of the same offence.

Penalty for breach of rules made under section 38.

40. 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 38, or while detained elsewhere for the purposes of this Act, 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.

41. 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 render assistance to 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 VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

42. All timber and wood found adrift or stranded on any river, or off the sea-coast of any province to which this Act shall be extended, 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. Such timber may be collected by any Forest officer or other person entitled to collect the same by virtue of any rule made under section 48 and may be brought to such depôts as the Forest officer may from time to time notify as depôts for the reception of drift-timber.

Drift or stranded timber or timber unmarked, or with marks obliterated to become property of Government until title thereto proved, and may be collected accordingly.

43. Public notice shall from time to time be given by the Forest officer, of timber collected under section 42. Such notice shall contain a description of the timber and shall require any person having a claim to the possession of the same to present to such officer within three months from the date of such notice a written statement of such claim.

Notice to claimants of drift-timber.

44. 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.

45. If no such statement is presented as aforesaid or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section 43, 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 44, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section 44, in such other person free from all encumbrances of every description.

Disposal of unclaimed 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, 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. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest officer or other person entitled to receive it such sums on account of the collection thereof as may be due under any rule made in pursuance of section 48.

Payments to be made by claimant before timber is delivered to him.

48. The Local Government may from time to time make rules to regulate the following matters, (namely) :—

Power to make rules and prescribe penalties.

(*a*) the salving and collection of timber or of certain kinds of timber which may be floating loose and unrafted, or may be sunk, stranded or beached in any river or on the sea-coast;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting and storing such timber;

(*d*) the use and registration of marking-hammers.

The Local Government may from time to time prescribe for the infringement of any rule made under this section the penalty of imprisonment for a term which may extend to six months, or a fine which may extend to five hundred rupees, or both.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

49. When the trial of any forest-offence is concluded, the Court may make such order as it thinks fit for the disposal of any timber or forest-produce, the property of Government, in respect of which any offence has been committed.

Disposal of property connected with cases under trial.

50. All timber or forest-produce which is not the property of Government and 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.

Forest-produce, tools, &c., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

51. When there is reason to believe that any property is liable to confiscation under section 50 for any offence, it may be seized by any Police or Forest officer.

Seizure of property liable to 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.

Application for confiscation.

52. If on receiving an application under section 51, 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 summons to be served in manner prescribed by the Code of Criminal Procedure on the owner or person found in possession of such property, and on his appearance pursuant to such summons, or in default thereof, shall examine into the cause of the seizure and, after hearing such evidence as the parties respectively may produce, may pass an order for the confiscation of the property or for its release.

Procedure on such application, when summons can be served.

53. Where the summons cannot be served, the Magistrate shall cause a notice of the application for confiscation to be affixed at such place as he thinks fit.

Procedure when summons cannot be served.

54. Within one month from the date on which such notice was affixed, any person may present a petition to the Magistrate claiming to be heard in opposition to the application.

Persons interested may oppose confiscation.

55. 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.

The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any articles seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such articles if they had not been sold.

56. The officer who made the seizure under section 51, or any of his official superiors, or any person claiming to be interested in the property so seized, 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.

57. When an order for the confiscation of any property has been passed under section 52 or 55, as the case may be, and the period limited by section 56 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.

58. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 51.

Saving of power to release property seized.

59. 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.

60. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

Penalty for counterfeiting or defacing marks on trees and timber and for altering 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, detroys 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.

61. 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.

62. 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.

63. 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.

64. The Magistrate of the district and any Magistrate of the first class specially empowered in this behalf by the Local Government 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.

65. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Operation of other laws not barred.

66. The Local Government may from time to time, by notification in the official Gazette, empower any Forest officer of such grade as the Local Government may from time to time direct, to accept from any person charged with any forest-offence other than an offence under section 60 or section 61 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.

67. 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.

68. Cattle trespassing in a reserved forest, or doing damage to any trees reserved under section 32, 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.

69. The Local Government 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 68 of this Act, such fines as it thinks fit, but not exceeding the following, that is to say :—

Power to alter fines fixed by that Act.

For each elephant	Ten rupees.
For each buffalo	Two "
For each camel, horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	One rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid ...	Eight annas.

D.—Miscellaneous.

70. 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 is extended, 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 furnish 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.

71. The Local Government may, subject to any restrictions from time to time imposed by the Governor General in Council, invest a Forest Settlement Officer, 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 territory to which this Act has been extended, or in any class of cases, that is to say:—

Local Government 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 the exercise of any power or the performance of any duty to a subordinate officer.

72. The Local Government may invest any Forest officer by name, or as holding an office, with the following powers, that is to say:—

Local Government may invest Forest officers with certain powers.

(*a*) to issue a search-warrant under chapter XXVII of the Code of Criminal Procedure;

(*b*) to hold an enquiry into forest-offences, and, in the course of such enquiry, to record evidence on oath.

Such evidence shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

73. In addition to the other rules which the Local Government is hereby empowered to make, it may from time to time make rules:—

Additional powers to make rules.

(*a*) 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

(*b*) generally to carry out the provisions of this Act.

74. The Local Government may, in making any rule under this Act for breach of which no special penalty is provided, attach to the breach of it, in addition to any other consequences that would ensue therefrom, the punishment on conviction before a Magistrate of imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both.

Power to impose penalties for breach of rules.

75. All rules made by the Local Government under this Act shall, when sanctioned by the Governor General in Council, be published in the official 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.

76. If the Government and any person be jointly interested in any forest, or in the whole or any part of the produce thereof, the Government may from time to time either

Management of forests the joint property of Government and other persons.

(*a*) undertake the management of such forest or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest or produce by the person so jointly interested as it deems necessary for the conservation of the forest or produce and the interests of all parties therein.

When the Government undertakes under clause (*a*) of this section the management of any forest, it may, from time to time, by notification in the official Gazette, declare that all or any of the provisions herein contained as to Reserved Forests shall apply to such forest, and thereupon such provisions shall apply accordingly.

77. 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 of land-revenue under the law for the time being in force.

Recovery of money due to Government.

78. 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.

79. All Forest officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Bribing Forest officers.

80. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Indemnity for acts done in good faith.

81. Except with the permission in writing of the Local Government no Forest officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

Forest officers not to trade.

STATEMENT OF OBJECTS AND REASONS.

The insufficiency of the present general Forest-law (Act VII of 1865) is universally admitted.

The necessity for legislation regarding forests in the Bombay Presidency, to which Act VII of 1865 has never been applied, has long been apparent, and has been urged by the Local Government. Thus, the want of legal powers to control timber in transit, to require it to be covered by a pass, and to levy duty on foreign timber, causes the loss of several lákhs of rupees annually, and a regular machinery for enquiring into and adjudicating upon private rights claimed in forests and reserves would be equally advantageous to the Government and the people.

The case of the Madras Presidency is generally similar to that of the other Provinces, and there is no doubt that the application to it of an improved Forest-law will be very beneficial.

A general Forest Bill has been under consideration since 1868, and more than one draft has been circulated to the various Local Governments. The present draft is for the most part the work of the Inspector General of Forests with the assistance of the Forest Conservators of Bengal and the Panjáb.

It will be observed that this Bill follows in a great measure the Bill for Burma, which has recently been introduced into the Legislative Council of the Governor General, and that provision is made in section 1 for the non-extension to particular Provinces of any portions of it which may have no local application or utility. The present Bill is divided into nine Chapters, dealing respectively with the following matters:—I, Preliminary; II, Reserved Forests; III, Village-Forests; IV, District-Forests; V, Forests not the property of Government; VI, Duty on Timber; VII, Control of Timber and Forest-produce in Transit; VIII, Collection of drift and stranded Timber; IX, Penalties, Procedure, etc.

In Chapter II will be found provisions for ascertaining, securing and commuting the rights of private persons in any forest which it is deemed necessary to reserve.

Chapters III and IV contain provisions regarding forest-lands belonging to Government or in which Government has proprietary rights, which it is deemed necessary to subject, as District or Village-forests, to regulations less stringent than those indispensable for Reserved Forests.

Chapter V regulates, in a manner analogous to that of the law of France and other European nations, forests and lands not the property of Government for objects affecting the safety and well-being of the public at large.

Chapters VI and VII provide for the levy of duty on timber in transit in certain parts of India, and for the prevention of illicit abstraction of timber from the Government forests.

T. C. HOPE.

The 22nd January 1877.

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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 2 OF 1877.

THE BROACH AND KAIRA INCUMBERED ESTATES BILL, 1877.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
2. Act No. XV of 1871 repealed.
3. Interpretation-clause.

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. Application for benefit of Act.
5. Order to enquire.
6. Verified statement to be submitted.
   False averments in statement.
7. Report of enquiry and proceedings thereon.

III.—OF THE ORDER OF MANAGEMENT.

8. "Order of management" to what it extends.
   Commencement of management.
9. Effect of order of management.
   Stay of pending proceedings, &c.
   Bar of fresh proceedings.
   The debtor incompetent—
   to contract debts,
   to encumber or alienate property,
   to grant receipts for rent.
10. Manager to have powers of owner and to receive rents and profits,
    to have powers of Collector for their recovery.
11. Manager to pay therefrom—
    costs of management and repairs,
    Government revenue, &c.,
    rent due to superior holder,
    allowance for maintenance of debtor,
    cost of improvements, &c.
    Residue how disposed of.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. Notice to claimants against debtor.
    Copies of notice to be exhibited.
13. Claim to contain full particulars.
    Documents to be given up.
    Entries in books.
    Power to exclude documents not produced.
14. Claim not duly notified to be barred.
    Admission of claims within further period of six months.
15. Determination of debts and liabilities.
16. Power to rank debts and to fix interest.
17. Scheme for liquidation.
    Provisions of scheme.

SECTIONS.
18. Proceedings of Commissioner on submission of scheme.
19. Power to relinquish management.

V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.
20. Effects of sanctioning scheme.
21. Power to remove mortgagee in possession.
22. Power to inquire into consideration given for leases.
23. Power to lease.
24. Power to raise money by mortgage or sale.
25. Manager's receipt, a discharge.
26. Termination of management. Restoration of owner.
27. Death of debtor during management.
28. Mortgages, &c., made by restored Thákur valid only for his life.

VI.—OF APPEAL AND REVISION.
29. Appeal.
30. Power to call for proceedings and pass order thereon.

VII.—MISCELLANEOUS.
31. Power to make rules.
32. Power to appoint new manager.
33. Managers to be public servants.
34. Investigation, a judicial proceeding.
35. Power to summon witnesses and compel production of documents.
36. Bar of suits.
37. Saving of jurisdiction of Courts in Broach and Kaira in respect of certain suits.
38. Amendment of Bombay Act VI of 1862.
39. Exemption of certain Thákurs from certain provisions of Act.

A Bill to relieve from Incumbrances the estates of Thákurs in Broach and Kaira.

WHEREAS many Thákurs in Broach and Kaira 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.

1. This Act may be called "The Broach and Kaira Incumbered Estates Act, 1877:"

Short title.

And it shall come into force on the passing thereof.

Commencement.

2. Act No. XV of 1871 (*to relieve from incumbrances the estates of Thákurs in Broach*) is repealed: but all applications and appointments and rules made, all notices published, and all other things duly done, under the said Act shall be deemed to have been respectively made, published and done under this Act.

Act No. XV of 1871 repealed.

Interpretation-clause.

3. In this Act—

"Thákur" means also taluqdár, jágírdár, kasbátí, and such other classes of holders of estates as the Local Government may, with the previous sanction of the Governor General in Council, declare to be Thákurs for the purposes of this Act:

"Thákur."

"Heir" means the person for the time being entitled as heir to a Thákur:

"Heir."

"Commissioner" means the Commissioner in Broach or Kaira, as the case may be.

"Commissioner."

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. At any time within twelve months after the passing of this Act, any Thákur,

Application for benefit of Act.

or any person who would be sole heir or one of the heirs to such Thákur if he then died intestate,

may apply, in writing, to the Commissioner, stating that such Thákur 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 Thákur 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.

5. When any such application is made by or on behalf of a Thákur, 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.

Order to enquire.

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.

6. When an enquiry has been directed under section 4, 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.

7. The officer so appointed, after making enquiry, 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 *Bombay Government 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.

8. 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.

9. 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 7 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,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

to grant receipts for rent.

(*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.

10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents and profits due in respect of the property under management,

Manager to have powers of owner and 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 Thákur, all the powers possessed by a Collector, under the law for the time being in force, for securing and recovering land-revenue due to Government:

to have powers of Collector for their recovery.

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

11. From the sums received or recovered under section 10, the manager shall pay—

Manager to pay therefrom—

First, the costs of the management, including the costs of necessary repairs;

costs of management and repairs,

Secondly, 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.,

Thirdly, the rent (if any) due to the jágírdár or other superior holder in respect of the said property;

rent due to superior holder,

Fourthly, 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,

Fifthly, the cost of such improvements of the said property as he thinks necessary, and are approved by the Commissioner.

cost of improvements, &c.

The residue shall be retained by the manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section 8 other than those so due or incurred to Government.

Residue how disposed of.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. On the publication of the order of management, the manager shall publish in the *Bombay Government Gazette* a notice in English and Gujaráti 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 Mámlatdárs' 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.

Entries in books.

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.

Power to exclude 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.

Claim not duly notified to be barred.

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 18, clause (*d*), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Admission of claims within further period of six months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 11 the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determination of debts and liabilities.

15. The manager shall inquire into the history and merits of every claim received under sections 12 and 14, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to rank debts and to fix interest.

16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof.

Scheme for liquidation.

17. 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) shewing 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.

Provisions of scheme.

Every such scheme shall further provide for the continuance of the payments to be made by the manager under section 11, and may 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.

Proceedings of Commissioner on submission of scheme.

18. The Commissioner may—

(*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.

Power to relinquish management.

19. At any time before he has sanctioned a liquidation-scheme under section 18, the Commissioner may, by an order published in the *Bombay Government Gazette*, direct that on a date fixed by such order the management shall be relinquished.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession thereof, subject to any leases made under section 10;

(*c*) any residue of the rents and profits of the said property, retained under the last clause of section 10, shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section 9, and the debts and liabilities barred by section 14, 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.

Effects of sanctioning scheme.

20. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the Local Government may from time to time by rule direct; and thereupon—

1*st*, all proceedings, processes, executions and attachments stayed or suspended under section 9 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.

Power to remove mortgagee in possession.

21. 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.

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.

Power to inquire into consideration given for leases.

22. 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 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, with the consent of the Commissioner, 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 lease.

23. Subject to the rules made under section 31, 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 raise money by mortgage or sale.

24. 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—

(*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.

Manager's receipt, a discharge.

25. 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.

Termination of management.

26. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged, the manager shall publish in the *Bombay Government Gazette* a notice fixing a date for the termination of the management.

Restoration of owner.

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 24, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections 10, 23 and 24.

Death of debtor during management.

27. 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—

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 9; 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 said succession.

Mortgages, &c., made by restored Thákur valid only for his life.

28. When a Thákur has been restored under section 26 to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such Thákur, shall be valid as to any time beyond his natural life.

VI.—Of Appeal and Revision.

Appeal.

29. An appeal against any decision or order under sections 14, 15, 16 and 22 and imposing a fine or imprisonment in exercise of the powers conferred by section 35, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call for proceedings and pass order thereon.

30. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions of this Act, as he thinks fit.

VII.—Miscellaneous.

Power to make rules.

31. The Local Government may, from time to time, make rules consistent with this Act—

(*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 (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities;

(*d*) 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

(*e*) generally to carry out the provisions of this Act.

Such rules shall be published in the *Bombay Government Gazette*, and when so published shall have the force of law.

Power to appoint new manager.

32. The Local Government 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.

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, a judicial proceeding.

35. 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.

36. 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.

37. Nothing in this Act precludes the Courts in Broach and Kaira 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 Broach and Kaira in respect of certain suits.

38. And whereas doubts have been raised as to the validity of Bombay Act No. VI of 1862 (*for the amelioration of the condition of Talukdárs in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the said Act, so far as it purports to affect the said High Court, shall be deemed to be and to have been valid.

Amendment of Bombay Act VI of 1862.

39. Nothing in section 9 shall be deemed to render any of the following Thákurs, namely, the Thákur of Ahmod, the Thákur of Sarod, the Thákur of Kerwára, the Thákur of Dehej and the Thákur of Janiádra incompetent to enter into contracts involving him in pecuniary liability, nor shall anything in section 28 apply to any of the said Thákurs:

Exemption of certain Thákurs from certain provisions of Act.

Provided that, if any such Thákur has, since the scheme for the settlement of his debts and liabilities was approved under section 11 of the said Act No. XV of 1871, entered into any contract involving him in pecuniary liability exceeding the average annual income derived during the previous five years from his immoveable property after deducting therefrom the land-tax and other dues of Government, the Local Government may, by notification in the *Bombay Government Gazette*, declare that the exemption made by the former part of this section shall cease in his case, and thereupon such exemption shall cease accordingly.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to relieve from incumbrances the estates of Thákurs in Kaira. The reasons for the measure are substantially the same as those which led to the introduction of similar measures for the relief of landholders in Oudh, Chutiá Nágpur, Ahmadábád, Broach, and Sindh.

The Bill repeals and re-enacts the substance of the Broach Act XV of 1871.

T. C. HOPE.

The 24th January 1877.

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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in one month:—

No. 3 OF 1877.

A Bill to restrict the transport of Salt by Sea.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Transport of Salt Act, 1877:"

Short title.

It extends to the whole of British India and, further, applies—

Extent.

(*a*) to all European British subjects of Her Majesty within the territorial jurisdiction of Princes and States in India in alliance with Her Majesty;

(*b*) to all Native Indian subjects of Her Majesty, wherever they may be;

And it shall come into force on such day as the Governor General in Council may, by notification in the *Gazette of India*, direct in this behalf.

Commencement.

2. When any salt is carried by sea in any vessel other than a square-rigged vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Penalty for carrying salt in certain vessels.

3. Nothing in section two applies to—

Exceptions.

(*a*) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873;

(*b*) salt covered by a pass granted by any officer whom the Governor General in Council may appoint in this behalf;

(*c*) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor General in Council may from time to time exempt from the operation of section two.

4. When any officer of Government empowered by the Governor General in Council or the Local Government, whether by name or office, to act under this section, has reason to suspect that any salt is being carried, or is about to be, or has recently been, carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by section two, he may—

Power of stoppage, search and arrest.

(*a*) require such vessel to be brought to and enter and search the same;

(*b*) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(*c*) arrest without a warrant any person on board of such vessel who he has reason to suspect is punishable under section two.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section four,

Penalties for resisting officer.

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

6. Every vessel in which salt is carried in contravention of this Act, and the cargo on board such vessel, shall be liable to confiscation.

Confiscation of vessel and cargo.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged (*a*) by the Collector of Customs, or (*b*) by such other officer as the Local Government may from time to time appoint in this behalf.

Whenever any Customs officer is satisfied that any article is liable to confiscation under this section, he may seize such article and shall at once report the seizure to his superior officer for the information of the Collector of Customs or such other officer as aforesaid, who may, if satisfied on such report, or after making such enquiry as he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Adjudication of offences.

8. For the purpose of the adjudication of penalties under section two, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.

Jurisdiction.

STATEMENT OF OBJECTS AND REASONS.

There is no law at present to prevent salt shipped from Bombay without payment of duty and destined for Madras or Calcutta, being surreptitiously landed at any port on the coast and smuggled salt being taken in lieu thereof and carried on to the port for which the vessel was cleared.

Moreover, there is nothing to prevent foreign salt or any other salt on which no duty has been made, being landed at any of our ports throughout our seaboard. Both of these defects have led to an immense amount of smuggling, which it is important to check without further delay. The present Bill therefore proposes that no vessel of less than three hundred tons shall be allowed to carry salt except under certain very strict conditions, and that vessels may be brought to and searched, regarding which suspicion exists that they are engaged in carrying on contraband traffic.

T. C. HOPE.

The 24th January 1877.

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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in a week:—

No. 4 OF 1877.

A Bill to amend Act No. XIII of 1875.

WHEREAS it is expedient to define the expression 'High Court' as used in Act No. XIII of 1875 (*to amend the law relating to Probates and Letters of Administration*), sections 2, 3 and 4; It is hereby enacted as follows:—

Preamble.

1. The expression 'High Court' in each of the said sections shall mean, and be deemed to have always meant—

'Chief Court' defined in Act XIII of 1875, sections 2, 3 and 4.

(*a*) a High Court for the time being established under the twenty-fourth and twenty-fifth of Victoria, chapter 104:

(*b*) the Chief Court of the Panjáb:

(*c*) the Court of the Recorder of Rangoon.

STATEMENT OF OBJECTS AND REASONS.

Act XIII of 1875 provides that probates or letters of administration granted by a 'High Court' shall (unless otherwise directed by the grant) have like effect throughout the whole of British India, and that, whenever such a grant is made, the Registrar shall send to each of the other High Courts a certificate of the grant.

It has been found that the burden thus imposed on the High Courts is excessive. For 'High Court' is defined to mean (both in the Succession Act and in the General Clauses Act, 1868) 'the highest Civil Court of Appeal,' and of such Courts there are, besides the High Courts properly so called, a large number in outlying parts of British India.

The remedy which the present Bill proposes to apply is to limit, in Act XIII of 1875, the expression 'High Court' to (*a*) the four High Courts properly so called, (*b*) the Panjáb Chief Court, and (*c*) the Court of the Recorder of Rangoon.

A. HOBHOUSE.

The 8th January 1877.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 17, 1877. { 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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in two months:—

No. 1 OF 1877.

THE INDIAN FOREST BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
   Extension.
2. Interpretation-clause.

CHAPTER II.

OF RESERVED FORESTS.

3. Power to reserve forests.
4. Demarcation of boundaries.
5. Notification by Local Government.
6. Bar of accrual of forest-rights.
7. Proclamation by Forest Settlement Officer.
8. Rights not claimed, extinguished.
9. Power to acquire land over which right is claimed.
10. Enquiry into claims.
11. Record to be made by Forest Settlement Officer.
12. Record where he admits claim.
13. Exercise of rights admitted or modified.

SECTIONS.

14. Commutation of rights.
15. Appeal from order passed under section 9, 10 or 13.
16. Power to appoint pleader on behalf of Government.
17. Notification declaring forest reserved.
18. Publication of such notification in neighbourhood of forest.
19. Reserved Forests constituted previous to passing of Act.
20. Formation and extension of Reserved Forests under Land Acquisition Act.
21. No right acquired over Reserved Forest except as here provided.
22. Rights not to be alienated.
23. Power to stop ways and water-courses in such forests.
24. Acts prohibited in such forests.
25. Power to declare forest no longer reserved.

CHAPTER III.

OF VILLAGE-FORESTS.

26. Demarcation of village-forests.

CHAPTER IV.

OF DISTRICT-FORESTS.

27. "District-forests" defined.
28. Power to issue notification—
    reserving trees,
    prohibiting collection of forest-produce, and breaking up or clearing of land.
29. Publication of such notification in neighbourhood.
30. Power to make rules regulating disposal of produce of district-forests.
31. Penalties for acts in contravention of notification under section 28.
32. Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

SECTIONS.

33. Protection of forests for special purposes.
34. Power to assume management of such forests.
35. Expropriation of forests in certain cases.

CHAPTER VI.

OF THE DUTY ON TIMBER.

36. Power to impose duty on timber.
Power to fix value for *ad valorem* duty.
37. Limit not to apply to royalty or purchase-money.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND FOREST-PRODUCE IN TRANSIT.

38. Power to make rules to regulate transit of forest-produce.
39. Penalty for breach of rules made under section 38.
40. Government and its officers not liable for damage to forest-produce at depôt.
41. All persons bound to aid in case of accident at depôt.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

42. Drift or stranded timber, or timber unmarked, or with marks obliterated, to become property of Government until title thereto proved, and may be collected accordingly.
43. Notice to claimants of drift-timber.
44. Procedure on claim preferred to such timber. On rejection of claim to such timber, claimant may institute suit.
45. Disposal of unclaimed timber.
46. Government and its officers not liable for damage to such timber.
47. Payments to be made by claimant before timber is delivered to him.
48. Power to make rules and prescribe penalties.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

49. Disposal of property connected with cases under trial.
50. Forest-produce, tools, &c., when liable to confiscation.
51. Seizure of property liable to confiscation. Application for confiscation.
52. Procedure on such application, when summons can be served.
53. Procedure when summons cannot be served.
54. Persons interested may oppose confiscation.
55. Order for confiscation.
56. Appeal from such order.
57. Property when to vest in Government.
58. Saving of power to release property seized.
59. Punishment for wrongful seizure.
60. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

B.—Of Criminal Procedure.

SECTIONS.

61. Power to arrest without warrant.
62. Power to prevent commission of offence.
63. Power to arrest person designing to commit offence.
64. Power to try offences summarily.
65. Operation of other laws not barred.
66. Power to compound offences.
67. Presumption that timber belongs to Government.

C.—Of Cattle-trespass.

68. Cattle Trespass Act, 1871, to apply.
69. Power to alter fines fixed by that Act.

D.—Miscellaneous.

70. Persons interested in forest bound to assist Forest and Police officers.
71. Local Government may confer additional powers.
72. Local Government may invest Forest officers with certain powers.
73. Additional powers to make rules.
74. Power to impose penalties for breach of rules.
75. Rules when to have force of law.
76. Management of forests the joint property of Government and other persons.
77. Recovery of money due to Government.
78. Lien on forest-produce for such money. Power to sell such produce.
79. Bribing Forest officers.
80. Indemnity for acts done in good faith.
81. Forest officers not to trade.

A Bill to amend the law relating to the management and preservation of Government forests, to the transit of forest-produce and to the duty leviable on timber.

Preamble.

WHEREAS it is expedient to amend the law relating to the management and preservation of Government forests, to the transit of forest-produce and to the duty leviable on timber; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act shall be called "The Indian Forest Act, 1877:"

Commencement.

It shall come into force at once;

Extension.

And the Local Government may from time to time, with the previous sanction of the Governor General in Council, extend, by notification in the official Gazette, all or any of the provisions herein contained to all or any of the territories for the time being under its administration.

Interpretation-clause.

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

"Forest officer."

"Forest officer" means any person whom the Local Government may from time to time appoint by name, or as holding an office, to do

(1) anything required by this Act or under any rule made under 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, roots, juice, cutch, bark, honey, wax, lac, caoutchouc, gum, wood-oil, resin, varnish, skins and horns:

"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, bullocks, cows, 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.

3. The Local Government may from time to time constitute any forest or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a Reserved Forest in the manner hereinafter provided.

Demarcation of boundaries.

4. Whenever it is proposed to constitute a Reserved Forest, and the limits of such Forest have not been defined by boundary-marks, and are not, in the opinion of the Local Government, already sufficiently defined by roads, rivers or other such boundaries, the Local Government may cause such limits to be demarcated in such manner as it thinks fit.

Notification by Local Government.

5. When the Local Government has ascertained that the limits of such Forest are already sufficiently defined as aforesaid, or when such limits have been demarcated under section 4, it may publish a notification in the official 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.

Bar of accrual of forest-rights.

6. During the interval between the publication of such notification and the date fixed by the notification under section 17, 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 clearings for cultivation or any other purpose shall be made in such forest.

Proclamation by Forest Settlement Officer.

7. When a notification has been issued under section 5, 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.

8. Any such right in respect of which no such notice is presented within the said period shall be deemed to be extinguished, unless the person claiming such right satisfies the Forest Settlement Officer that he had sufficient cause for not presenting the notice within such period.

Power to acquire land over which right is claimed.

9. When any such notice is presented as aforesaid, the Forest Settlement Officer shall inquire into the merits of the claim, and may, in the case of a claim to or over any land, if he considers it proved and if he thinks fit to do so, pass an order to that effect and proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870, and may, in the case of a claim to rights of way or of pasture, or to forest-produce, proceed in the manner prescribed in sections 10 and 11.

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.

10. 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.

11. 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 5, in the habitual exercise of the right claimed, and

(*b*) 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.

12. 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 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. He shall also record whether the produce obtained by the exercise of such rights may be sold or bartered.

Exercise of rights admitted or modified.

13. 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*) 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; or

(*b*) 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

(*c*) 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, within such portions of the Reserved Forest and under such rules as may from time to time be prescribed by the Local Government.

Commutation of rights.

14. In case the Forest 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 Local Government 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 he thinks fit.

Appeal from order passed under section 9, 10 or 13.

15. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under section 9, 10 or 13, present an appeal from such order to such of the officers who hear appeals in cases relating to land-revenue as the Local Government may from time to time appoint by notification in the official Gazette: Provided that, where the Local Government has appointed (as it is hereby empowered to do) three persons (hereinafter called the Forest Court) to hear appeals from such orders, the appeal shall lie to such persons.

Every appeal under this section shall be made by petition in writing, and shall be delivered to and forwarded by the Forest Settlement Officer.

If the appeal be to the officer so appointed, the order passed thereon shall be communicated to the Forest Settlement Officer who shall forthwith carry out the same.

If the appeal be to the Forest Court, the 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 Local Government) be final, and the Forest Settlement Officer shall forthwith carry out such order.

Power to appoint pleader on behalf of Government.

16. The Local Government may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the appellate Court in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

17. When the following events have occurred (namely)—

(*a*) the period fixed under section 7 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 15 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 appellate Court; and

(*c*) all lands (if any) included in the forest, which the Forest Settlement Officer has, under section 9, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section 16 of that Act,

the Local Government may publish a notification in the official 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.

18. 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.

Reserved Forests constituted previous to passing of Act.

19. Any forest constituted a Reserved Forest under any law in force previous to the date on which this Act comes into force, shall be deemed to have been constituted a Reserved Forest under this Act:

Provided that, if any rights to or over any land or forest-produce are claimed in such Reserved Forest, the Local Government may direct that such claims shall be inquired into and settled in the manner provided by this Act.

Formation and extension of Reserved Forests under Land Acquisition Act.

20. 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.

No right acquired over Reserved Forest, except as here provided.

21. 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.

22. No right conferred under section 13, clause (*c*), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government, 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 12.

Power to stop ways and water-courses in such forests.

23. The Forest officer may from time to time, with the previous sanction of the Local Government, stop any public or private way or water-course in a Reserved Forest, provided that he has already assigned or constructed another way or water-course (as the case may be) in lieu thereof, and that such other way or water-course is a reasonably convenient substitute for the way or water-course so stopped.

Acts prohibited in such forests.

24. Any person who—

(*a*) sets fire to a Reserved Forest, or kindles any fire therein in such manner as to endanger the same;

(*b*) kindles, keeps or carries any fire therein at such seasons as the Local Government may from time to time notify in this behalf;

(*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 tree or cutting or dragging any timber;

(*f*) fells, girdles, lops, taps or burns any tree therein, or strips off the bark or leaves from, or otherwise interferes with, the same;

(*g*) collects therein or removes therefrom any forest-produce;

(*h*) clears or breaks up any land therein for cultivation or any other purpose;

(*i*) hunts, shoots, fishes or sets snares therein in contravention of any rules which the Local Government may from time to time prescribe,

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 13, clause (*a*), or created by written grant or contract made by or on behalf of Government.

In any case of fire which has been caused wilfully, or which there is reason to believe has been so caused, in a Reserved Forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that the forest or any portion thereof may be closed for such period as it thinks fit. During the period of such closure the exercise of all rights to pasture or other forest-produce shall be suspended.

Power to declare forest no longer reserved.

25. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official 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 revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

Demarcation of village-forests.

26. The Local Government may assign any Reserved-forest or portion thereof, or any forest the property of Government, for the use of any villages situated in the vicinity of such forest. All forests so assigned shall be called Village-forests. The Local Government may make rules for regulating the management of Village-forests, prescribing the conditions under which the inhabitants of the villages for the use of which any such assignment is made 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 IV.

OF DISTRICT-FORESTS.

"District-forests" defined.

27. The Local Government may from time to time, by notification in the official Gazette, declare the provisions of this chapter applicable to any forest or waste-land which is not included in a Reserved Forest; but which is the property of Government, or is a forest over which the Government has proprietary rights.

The forests and waste-lands comprised in any such notification shall be called "District-Forests."

Power to issue notification—

28. The Local Government may from time to time, by notification in the official 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 date 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; and

and breaking up or clearing of land.

(*c*) the breaking up or clearing for cultivation, for building, for herding cattle or for any other purposes, any land in any such forest.

29. The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district of every notification issued under section 28 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest to which such notification applies.

Publication of such notification in neighbourhood.

30. The Local Government may from time to time make rules to regulate the following matters:—

Power to make rules regulating disposal of produce of district-forests.

(*a*) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce from the district-forests;

(*b*) the granting of 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*) the fees (if any) payable by the persons mentioned in clauses (*b*) and (*c*) for permission to cut such trees, or to collect and remove such timber or forest-produce;

(*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;

(*f*) the examination of produce passing out of the forest;

(*g*) the clearing and breaking up of land for cultivation or other purposes;

(*h*) the protection from fire of timber lying in district-forests;

(*i*) the cutting of grass and pasturing of cattle;

(*j*) hunting, shooting, fishing and setting snares in such forests.

Penalties for acts in contravention of notification under section 28.

31. Any person who—

(*a*) fells, girdles, lops, taps or burns any tree reserved under section 28, or strips off the bark or leaves from, or otherwise interferes with, any such tree; or

(*b*) breaks up or clears for cultivation or any other purpose, any land in any forest containing trees reserved as aforesaid, or sets fire to such forests; 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 28; or

(*h*) infringes any rule under section 30,

shall be punished with imprisonment which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

32. Nothing in this chapter or in any rule made under this chapter 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 30, or in the exercise of any right.

Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

33. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, regulate or prohibit the breaking up of land for cultivation or the clearing of the growth in any forest, when such regulation or prohibition appears necessary for any of the following purposes:

Protection of forests for special purposes

First.—For protection against storms, winds, rolling stones and avalanches:

Second.—For the preservation of the soil on the ridges and slopes, and in the valleys of mountain-ranges, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against shifting and moving sands:

Third.—For the maintenance of a water-supply in springs, rivers and tanks:

Fourth.—For the protection of roads, bridges, railways, and other lines of communication:

Fifth.—For the preservation of the public health.

34. In case of neglect of, or wilful disobedience to, any prohibition under section 33, the Local Government may, after notice in writing to the proprietor or other person interested in the forest, and considering his objections (if any), place the same under the control of a Forest officer, and may declare that all or any of the provisions of this Act relating to Reserved Forests shall apply to such forest.

Power to assume management of such forests.

The nett profits (if any) arising from the management of such forest shall be paid to the said proprietor or other person.

35. In any case under this chapter in which the Local Government considers that, in lieu of placing the forest under the control of a Forest officer, the forest should be acquired for public purposes, the Local Government may proceed to acquire the same in the manner prescribed by the Land Acquisition Act, 1870.

Expropriation of forests in certain cases.

CHAPTER VI.

OF THE DUTY ON TIMBER.

36. On all timber the produce of forests situated within British India or brought from any forest situated beyond the frontier, a duty may be levied in such manner, at such places and at such rates, 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 impose duty on timber.

In every case in which such duty is directed to be levied *ad valorem*, the Local Government 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.

37. Nothing in this chapter shall be deemed to limit the amount chargeable as purchase-money or royalty on any timber or forest-produce, notwithstanding that the same be levied on such timber or produce while in transit, in the same manner as duty is levied.

Limit not to apply to royalty on purchase-money.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND FOREST-PRODUCE IN TRANSIT.

38. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and forest-produce in transit by land or sea, is vested in the Local Government, and it 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 India;

(*b*) prohibit the import, export or moving of such timber or other produce without a pass from the Forest officer, authorized to issue the same, 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, reporting 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; the conditions under which timber shall be brought to, stored at, and removed from, such depôts;

(*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;

(*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;

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, 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;

(*i*) regulate the use of property-marks for timber, provide for the registration of such marks and the time for which such registration shall hold good limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

39. The Local Government may prescribe penalties for the infringement of any rule made under section 38, by imprisonment for a term not exceeding six months, or by fine not exceeding five hundred rupees, or by both. Double penalties may be prescribed in cases where the offence is committed between sunset and sunrise, after preparation for resistance to lawful authority, or if the offender has been previously convicted of the same offence.

Penalty for breach of rules made under section 38.

40. 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 38, or while detained elsewhere for the purposes of this Act, 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.

41. 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 render assistance to 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 VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

42. All timber and wood found adrift or stranded on any river, or off the sea-coast of any province to which this Act shall be extended, 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. Such timber may be collected by any Forest officer or other person entitled to collect the same by virtue of any rule made under section 48 and may be brought to such depôts as the Forest officer may from time to time notify as depôts for the reception of drift-timber.

Drift or stranded timber or timber unmarked, or with marks obliterated to become property of Government until title thereto proved, and may be collected accordingly.

43. Public notice shall from time to time be given by the Forest officer, of timber collected under section 42. Such notice shall contain a description of the timber and shall require any person having a claim to the possession of the same to present to such officer within three months from the date of such notice a written statement of such claim.

Notice to claimants of drift-timber.

44. 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.

45. If no such statement is presented as aforesaid or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section 43, 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 44, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section 44, in such other person free from all encumbrances of every description.

Disposal of unclaimed 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, 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. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest officer or other person entitled to receive it such sums on account of the collection thereof as may be due under any rule made in pursuance of section 48.

Payments to be made by claimant before timber is delivered to him.

48. The Local Government may from time to time make rules to regulate the following matters, (namely) :—

Power to make rules and prescribe penalties.

(*a*) the salving and collection of timber or of certain kinds of timber which may be floating loose and unrafted, or may be sunk, stranded or beached in any river or on the sea-coast;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting and storing such timber;

(*d*) the use and registration of marking-hammers.

The Local Government may from time to time prescribe for the infringement of any rule made under this section the penalty of imprisonment for a term which may extend to six months, or a fine which may extend to five hundred rupees, or both.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

49. When the trial of any forest-offence is concluded, the Court may make such order as it thinks fit for the disposal of any timber or forest-produce, the property of Government, in respect of which any offence has been committed.

Disposal of property connected with cases under trial.

50. All timber or forest-produce which is not the property of Government and 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.

Forest-produce, tools, &c., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

51. When there is reason to believe that any property is liable to confiscation under section 50 for any offence, it may be seized by any Police or Forest officer.

Seizure of property liable to 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.

Application for confiscation.

52. If on receiving an application under section 51, 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 summons to be served in manner prescribed by the Code of Criminal Procedure on the owner or person found in possession of such property, and on his appearance pursuant to such summons, or in default thereof, shall examine into the cause of the seizure and, after hearing such evidence as the parties respectively may produce, may pass an order for the confiscation of the property or for its release.

Procedure on such application, when summons can be served.

53. Where the summons cannot be served, the Magistrate shall cause a notice of the application for confiscation to be affixed at such place as he thinks fit.

Procedure when summons cannot be served.

54. Within one month from the date on which such notice was affixed, any person may present a petition to the Magistrate claiming to be heard in opposition to the application.

Persons interested may oppose confiscation.

55. 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.

The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any articles seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such articles if they had not been sold.

56. The officer who made the seizure under section 51, or any of his official superiors, or any person claiming to be interested in the property so seized, 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.

57. When an order for the confiscation of any property has been passed under section 52 or 55, as the case may be, and the period limited by section 56 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.

58. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 51.

Saving of power to release property seized.

59. 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.

60. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

Penalty for counterfeiting or defacing marks on trees and timber and for altering 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, detroys 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.

61. 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.

62. 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.

63. 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.

64. The Magistrate of the district and any Magistrate of the first class specially empowered in this behalf by the Local Government 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.

65. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Operation of other laws not barred.

66. The Local Government may from time to time, by notification in the official Gazette, empower any Forest officer of such grade as the Local Government may from time to time direct, to accept from any person charged with any forest-offence other than an offence under section 60 or section 61 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.

67. 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.

68. Cattle trespassing in a reserved forest, or doing damage to any trees reserved under section 32, 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.

69. The Local Government 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 68 of this Act, such fines as it thinks fit, but not exceeding the following, that is to say :—

Power to alter fines fixed by that Act.

For each elephant	Ten rupees.
For each buffalo	Two „
For each camel, horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	One rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid ...	Eight annas.

D.—Miscellaneous.

70. 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 is extended, 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 furnish 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.

71. The Local Government may, subject to any restrictions from time to time imposed by the Governor General in Council, invest a Forest Settlement Officer, 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 territory to which this Act has been extended, or in any class of cases, that is to say:—

Local Government 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 the exercise of any power or the performance of any duty to a subordinate officer.

72. The Local Government may invest any Forest officer by name, or as holding an office, with the following powers, that is to say:—

Local Government may invest Forest officers with certain powers.

(*a*) to issue a search-warrant under chapter XXVII of the Code of Criminal Procedure;

(*b*) to hold an enquiry into forest-offences, and, in the course of such enquiry, to record evidence on oath.

Such evidence shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

73. In addition to the other rules which the Local Government is hereby empowered to make, it may from time to time make rules:—

Additional powers to make rules.

(*a*) 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

(*b*) generally to carry out the provisions of this Act.

74. The Local Government may, in making any rule under this Act for breach of which no special penalty is provided, attach to the breach of it, in addition to any other consequences that would ensue therefrom, the punishment on conviction before a Magistrate of imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both.

Power to impose penalties for breach of rules.

75. All rules made by the Local Government under this Act shall, when sanctioned by the Governor General in Council, be published in the official 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.

76. If the Government and any person be jointly interested in any forest, or in the whole or any part of the produce thereof, the Government may from time to time either

Management of forests the joint property of Government and other persons.

(*a*) undertake the management of such forest or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest or produce by the person so jointly interested as it deems necessary for the conservation of the forest or produce and the interests of all parties therein.

When the Government undertakes under clause (*a*) of this section the management of any forest, it may, from time to time, by notification in the official Gazette, declare that all or any of the provisions herein contained as to Reserved Forests shall apply to such forest, and thereupon such provisions shall apply accordingly.

77. 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 of land-revenue under the law for the time being in force.

Recovery of money due to Government.

78. 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.

79. All Forest officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Bribing Forest officers.

80. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Indemnity for acts done in good faith.

81. Except with the permission in writing of the Local Government no Forest officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

Forest officers not to trade.

STATEMENT OF OBJECTS AND REASONS.

The insufficiency of the present general Forest-law (Act VII of 1865) is universally admitted.

The necessity for legislation regarding forests in the Bombay Presidency, to which Act VII of 1865 has never been applied, has long been apparent, and has been urged by the Local Government. Thus, the want of legal powers to control timber in transit, to require it to be covered by a pass, and to levy duty on foreign timber, causes the loss of several lákhs of rupees annually, and a regular machinery for enquiring into and adjudicating upon private rights claimed in forests and reserves would be equally advantageous to the Government and the people.

The case of the Madras Presidency is generally similar to that of the other Provinces, and there is no doubt that the application to it of an improved Forest-law will be very beneficial.

A general Forest Bill has been under consideration since 1868, and more than one draft has been circulated to the various Local Governments. The present draft is for the most part the work of the Inspector General of Forests with the assistance of the Forest Conservators of Bengal and the Panjáb.

It will be observed that this Bill follows in a great measure the Bill for Burma, which has recently been introduced into the Legislative Council of the Governor General, and that provision is made in section 1 for the non-extension to particular Provinces of any portions of it which may have no local application or utility. The present Bill is divided into nine Chapters, dealing respectively with the following matters:—I, Preliminary; II, Reserved Forests; III, Village-Forests; IV, District-Forests; V, Forests not the property of Government; VI, Duty on Timber; VII, Control of Timber and Forest-produce in Transit; VIII, Collection of drift and stranded Timber; IX, Penalties, Procedure, etc.

In Chapter II will be found provisions for ascertaining, securing and commuting the rights of private persons in any forest which it is deemed necessary to reserve.

Chapters III and IV contain provisions regarding forest-lands belonging to Government or in which Government has proprietary rights, which it is deemed necessary to subject, as District or Village-forests, to regulations less stringent than those indispensable for Reserved Forests.

Chapter V regulates, in a manner analogous to that of the law of France and other European nations, forests and lands not the property of Government for objects affecting the safety and well-being of the public at large.

Chapters VI and VII provide for the levy of duty on timber in transit in certain parts of India, and for the prevention of illicit abstraction of timber from the Government forests.

T. C. HOPE.

The 22nd January 1877.

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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 2 OF 1877.

THE BROACH AND KAIRA INCUMBERED ESTATES BILL, 1877.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
2. Act No. XV of 1871 repealed.
3. Interpretation-clause.

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. Application for benefit of Act.
5. Order to enquire.
6. Verified statement to be submitted.
False averments in statement.
7. Report of enquiry and proceedings thereon.

III.—OF THE ORDER OF MANAGEMENT.

8. "Order of management" to what it extends.
Commencement of management.
9. Effect of order of management.
Stay of pending proceedings, &c.
Bar of fresh proceedings.
The debtor incompetent—
to contract debts,
to encumber or alienate property,
to grant receipts for rent.
10. Manager to have powers of owner and to receive rents and profits,
to have powers of Collector for their recovery.
11. Manager to pay therefrom—
costs of management and repairs,
Government revenue, &c.,
rent due to superior holder,
allowance for maintenance of debtor,
cost of improvements, &c.
Residue how disposed of.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. Notice to claimants against debtor.
Copies of notice to be exhibited.
13. Claim to contain full particulars.
Documents to be given up.
Entries in books.
Power to exclude documents not produced.
14. Claim not duly notified to be barred.
Admission of claims within further period of six months.
15. Determination of debts and liabilities.
16. Power to rank debts and to fix interest.
17. Scheme for liquidation.
Provisions of scheme.

SECTIONS.
18. Proceedings of Commissioner on submission of scheme.
19. Power to relinquish management.

V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.
20. Effects of sanctioning scheme.
21. Power to remove mortgagee in possession.
22. Power to inquire into consideration given for leases.
23. Power to lease.
24. Power to raise money by mortgage or sale.
25. Manager's receipt, a discharge.
26. Termination of management. Restoration of owner.
27. Death of debtor during management.
28. Mortgages, &c., made by restored Thákur valid only for his life.

VI.—OF APPEAL AND REVISION.
29. Appeal.
30. Power to call for proceedings and pass order thereon.

VII.—MISCELLANEOUS.
31. Power to make rules.
32. Power to appoint new manager.
33. Managers to be public servants.
34. Investigation, a judicial proceeding.
35. Power to summon witnesses and compel production of documents.
36. Bar of suits.
37. Saving of jurisdiction of Courts in Broach and Kaira in respect of certain suits.
38. Amendment of Bombay Act VI of 1862.
39. Exemption of certain Thákurs from certain provisions of Act.

A Bill to relieve from Incumbrances the estates of Thákurs in Broach and Kaira.

Preamble.

WHEREAS many Thákurs in Broach and Kaira 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 Broach and Kaira Incumbered Estates Act, 1877:"

Commencement.

And it shall come into force on the passing thereof.

Act No. XV of 1871 repealed.

2. Act No. XV of 1871 (*to relieve from incumbrances the estates of Thákurs in Broach*) is repealed: but all applications and appointments and rules made, all notices published, and all other things duly done, under the said Act shall be deemed to have been respectively made, published and done under this Act.

Interpretation-clause.

3. In this Act—

"Thákur" means also taluqdár, jágírdár, kasbátí, and such other classes of holders of estates as the Local Government may, with the previous sanction of the Governor General in Council, declare to be Thákurs for the purposes of this Act:

"Thákur."

"Heir" means the person for the time being entitled as heir to a Thákur:

"Heir."

"Commissioner" means the Commissioner in Broach or Kaira, as the case may be.

"Commissioner."

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application for benefit of Act.

4. At any time within twelve months after the passing of this Act, any Thákur,

or any person who would be sole heir or one of the heirs to such Thákur if he then died intestate,

may apply, in writing, to the Commissioner, stating that such Thákur 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 Thákur 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.

5. When any such application is made by or on behalf of a Thákur, 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.

6. When an enquiry has been directed under section 4, 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.

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.

Report of enquiry and proceedings thereon.

7. The officer so appointed, after making enquiry, 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

Bombay Government 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.

8. 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.

9. 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 7 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,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

to grant receipts for rent.

(*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 have powers of owner and to receive rents and profits.

10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents and profits due in respect of the property under management,

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a Thákur, all the powers possessed by a Collector, under the law for the time being in force, for securing and recovering land-revenue due to Government:

to have powers of Collector for their recovery.

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

Manager to pay therefrom—

11. From the sums received or recovered under section 10, the manager shall pay—

costs of management and repairs,

First, the costs of the management, including the costs of necessary repairs;

Government revenue, &c.,

Secondly, 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,

Thirdly, the rent (if any) due to the jágírdár or other superior holder in respect of the said property;

allowance for maintenance of debtor,

Fourthly, such periodical allowance as the Commissioner may from time to time fix for the maintenance of the debtor and his family;

cost of improvements, &c.

Fifthly, the cost of such improvements of the said property as he thinks necessary, and are approved by the Commissioner.

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 8 other than those so due or incurred to Government.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

Notice to claimants against debtor.

12. On the publication of the order of management, the manager shall publish in the *Bombay Government Gazette* a notice in English and Gujarátí 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.

Copies of notice to be exhibited.

He shall also cause copies of such notice to be exhibited at the Mámlatdárs' kachahrís in the district in which the said property lies, and at such other places as he thinks fit.

Claim to contain full particulars.

13. 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.

Power to exclude 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.

Claim not duly notified to be barred.

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 18, clause (*d*), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Admission of claims within further period of six months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 11 the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determination of debts and liabilities.

15. The manager shall inquire into the history and merits of every claim received under sections 12 and 14, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to rank debts and to fix interest.

16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof.

Scheme for liquidation.

17. 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) shewing 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.

Provisions of scheme.

Every such scheme shall further provide for the continuance of the payments to be made by the manager under section 11, and may 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.

Proceedings of Commissioner on submission of scheme.

18. The Commissioner may—

(*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.

Power to relinquish management.

19. At any time before he has sanctioned a liquidation-scheme under section 18, the Commissioner may, by an order published in the *Bombay Government Gazette*, direct that on a date fixed by such order the management shall be relinquished.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession thereof, subject to any leases made under section 10;

(*c*) any residue of the rents and profits of the said property, retained under the last clause of section 10, shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section 9, and the debts and liabilities barred by section 14, 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.

Effects of sanctioning scheme.

20. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the Local Government may from time to time by rule direct; and thereupon—

1*st*, all proceedings, processes, executions and attachments stayed or suspended under section 9 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.

Power to remove mortgagee in possession.

21. 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.

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.

Power to inquire into consideration given for leases.

22. 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 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, with the consent of the Commissioner, 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 lease.

23. Subject to the rules made under section 31, 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 raise money by mortgage or sale.

24. 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—

(*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.

Manager's receipt, a discharge.

25. 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.

Termination of management.

26. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged, the manager shall publish in the *Bombay Government Gazette* a notice fixing a date for the termination of the management.

Restoration of owner.

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 24, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections 10, 23 and 24.

Death of debtor during management.

27. 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—

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 9; 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 said succession.

Mortgages, &c., made by restored Thákur valid only for his life.

28. When a Thákur has been restored under section 26 to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such Thákur, shall be valid as to any time beyond his natural life.

VI.—OF APPEAL AND REVISION.

Appeal.

29. An appeal against any decision or order under sections 14, 15, 16 and 22 and imposing a fine or imprisonment in exercise of the powers conferred by section 35, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call for proceedings and pass order thereon.

30. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions of this Act, as he thinks fit.

VII.—MISCELLANEOUS.

Power to make rules.

31. The Local Government may, from time to time, make rules consistent with this Act—

(*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 (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities;

(*d*) 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

(*e*) generally to carry out the provisions of this Act.

Such rules shall be published in the *Bombay Government Gazette*, and when so published shall have the force of law.

Power to appoint new manager.

32. The Local Government 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.

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, a judicial proceeding.

35. 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.

36. 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.

37. Nothing in this Act precludes the Courts in Broach and Kaira 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 Broach and Kaira in respect of certain suits.

38. And whereas doubts have been raised as to the validity of Bombay Act No. VI of 1862 (*for the amelioration of the condition of Taluqdárs in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the said Act, so far as it purports to affect the said High Court, shall be deemed to be and to have been valid.

Amendment of Bombay Act VI of 1862.

39. Nothing in section 9 shall be deemed to render any of the following Thákurs, namely, the Thákur of Ahmod, the Thákur of Sarod, the Thákur of Kerwára, the Thákur of Dehej and the Thákur of Janiádra incompetent to enter into contracts involving him in pecuniary liability, nor shall anything in section 28 apply to any of the said Thákurs:

Exemption of certain Thákurs from certain provisions of Act.

Provided that, if any such Thákur has, since the scheme for the settlement of his debts and liabilities was approved under section 11 of the said Act No. XV of 1871, entered into any contract involving him in pecuniary liability exceeding the average annual income derived during the previous five years from his immoveable property after deducting therefrom the land-tax and other dues of Government, the Local Government may, by notification in the *Bombay Government Gazette*, declare that the exemption made by the former part of this section shall cease in his case, and thereupon such exemption shall cease accordingly.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to relieve from incumbrances the estates of Thákurs in Kaira. The reasons for the measure are substantially the same as those which led to the introduction of similar measures for the relief of landholders in Oudh, Chutiá Nágpur, Ahmadábád, Broach, and Sindh.

The Bill repeals and re-enacts the substance of the Broach Act XV of 1871.

T. C. HOPE.

The 24th January 1877.

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 31st January 1877, and was referred to a Select Committee with instructions to make their report thereon in one month:—

No. 3 OF 1877.

A Bill to restrict the transport of Salt by Sea.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Transport of Salt Act, 1877:"

Short title.

It extends to the whole of British India and, further, applies—

Extent.

(*a*) to all European British subjects of Her Majesty within the territorial jurisdiction of Princes and States in India in alliance with Her Majesty;

(*b*) to all Native Indian subjects of Her Majesty, wherever they may be;

And it shall come into force on such day as the Governor General in Council may, by notification in the *Gazette of India*, direct in this behalf.

Commencement.

2. When any salt is carried by sea in any vessel other than a square-rigged vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Penalty for carrying salt in certain vessels.

3. Nothing in section two applies to—

Exceptions.

(*a*) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873;

(*b*) salt covered by a pass granted by any officer whom the Governor General in Council may appoint in this behalf;

(*c*) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor General in Council may from time to time exempt from the operation of section two.

4. When any officer of Government empowered by the Governor General in Council or the Local Government, whether by name or office, to act under this section, has reason to suspect that any salt is being carried, or is about to be, or has recently been, carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by section two, he may—

Power of stoppage, search and arrest.

(*a*) require such vessel to be brought to and enter and search the same;

(*b*) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(*c*) arrest without a warrant any person on board of such vessel who he has reason to suspect is punishable under section two.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section four,

Penalties for resisting officer.

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

6. Every vessel in which salt is carried in contravention of this Act, and the cargo on board such vessel, shall be liable to confiscation.

Confiscation of vessel and cargo.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged (*a*) by the Collector of Customs, or (*b*) by such other officer as the Local Government may from time to time appoint in this behalf.

Whenever any Customs officer is satisfied that any article is liable to confiscation under this section, he may seize such article and shall at once report the seizure to his superior officer for the information of the Collector of Customs or such other officer as aforesaid, who may, if satisfied on such report, or after making such enquiry as he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Adjudication of offences.

8. For the purpose of the adjudication of penalties under section two, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.

Jurisdiction.

STATEMENT OF OBJECTS AND REASONS.

There is no law at present to prevent salt shipped from Bombay without payment of duty and destined for Madras or Calcutta, being surreptitiously landed at any port on the coast and smuggled salt being taken in lieu thereof and carried on to the port for which the vessel was cleared.

Moreover, there is nothing to prevent foreign salt or any other salt on which no duty has been made, being landed at any of our ports throughout our seaboard. Both of these defects have led to an immense amount of smuggling, which it is important to check without further delay. The present Bill therefore proposes that no vessel of less than three hundred tons shall be allowed to carry salt except under certain very strict conditions, and that vessels may be brought to and searched, regarding which suspicion exists that they are engaged in carrying on contraband traffic.

T. C. HOPE.

The 24th January 1877.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, FEBRUARY 24, 1877. { 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 21st February 1877, and was referred to a Select Committee :—

No. 5 OF 1877.

THE INDIAN LIMITATION BILL, 1877.

CONTENTS.

PREAMBLE.

SECTIONS.

PART I.

PRELIMINARY.

1. Short title.
   Commencement.
   Extent of Act.
2. Repeal of Act IX of 1871.
3. Interpretation-clause.

PART II.

LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

4. Dismissal of suits, &c., instituted, &c., after period of limitation.
5. Proviso where Court is closed when period expires.
   Proviso as to appeals and applications for review.
6. Different periods of limitation prescribed by local laws.
   Appeals from decrees of High Courts on original side.

SECTIONS.

7. Legal disability.
   Double and successive disabilities.
   Disability of representative.
8. Disability of one joint-creditor.
9. Continuous running of time.
10. Suits against express trustees and their representatives.
11. Suits on foreign contracts.
12. Foreign limitation-law.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

13. Exclusion of day on which right to sue accrues.
    Exclusions in case of appeals and certain applications.
14. Exclusion of time of defendant's absence from British India.
15. Exclusion of time of suing *bonâ fide* in Court without jurisdiction.
    Like exclusion in case of application.
16. Exclusion of time during which commencement of suit is stayed by injunction.
    Like exclusion in case of order under Civil Procedure Code, s. 19.
17. Exclusion of time during which judgment-debtor sues to set aside execution-sale.
18. Effect of death before right to sue accrues.
19. Effect of fraud.
20. Effect of acknowledgment in writing.
21. Effect of payment of interest as such.
    Effect of part-payment of principal.
    Effect of delivery and receipt of produce of mortgaged land.
22. Effect of substituting or adding new plaintiff or defendant.
    Proviso where original plaintiff dies.
    Proviso where original defendant dies.
23. Computation where there are successive breaches of contract.
    Computation where the breach is continuing.

SECTIONS.
24. Continuing wrong.
25. Suit for compensation for act becoming unlawful.
26. Computation of time mentioned in instruments.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

27. Acquisition of right to easements.
28. Exclusion in favor of reversioner of servient tenement.
29. Extinguishment of right to property.
30. Possession by successive trespassers.

SCHEDULE.

I. SUITS. II. APPEALS. III. APPLICATIONS.

A Bill for the Limitation of Suits, and for other Purposes.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; And whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. Commencement.

1. This Act may be called 'The Indian Limitation Act, 1877,' and shall come into force on the first day of July 1877.

Extent of Act.

It extends to the whole of British India; but nothing contained in sections two and three or in Parts II and III applies—

(*a*) to suits under the Indian Divorce Act, or

(*b*) to suits under Madras Regulation VI of 1831.

Repeal of Act IX of 1871.

2. Act No. IX of 1871 (*An Act for the Limitation of Suits and for other purposes*) shall be repealed.

But all references to such Act shall be read as if made to this Act; and nothing herein or in that Act contained shall be deemed to affect any title acquired under that Act or under any enactment thereby repealed.

And notwithstanding anything herein contained, any suit mentioned in No. 143, No. 144 or No. 145 of the schedule hereto annexed, may be brought within five years next after the said first day of July 1877, unless where the period prescribed for such suit by the said Act No. IX of 1871 shall have expired before the completion of the said five years.

Interpretation-clause.

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

'minor' means a person who has not completed his age of eighteen years:

'plaintiff' includes also any person from or through whom a plaintiff derives his right to sue:

'easement' includes also a right, not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another, or anything growing in, or attached to, or subsisting upon, the land of another:

'bill of exchange' includes also a hundí:

'trustee' does not include a benámídár, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title:

'suit' does not include an appeal or an application:

'registered' means duly registered under the law for the registration of documents in force at the time and place of executing the document referred to in the context:

'foreign country' means any country other than British India;

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

PART II.

LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

Dismissal of suits, &c., instituted, &c., after period of limitation.

4. Subject to the provisions contained in sections five to twenty-six (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted in ordinary cases when the plaint, stamped in accordance with the law for the time being in force, is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Illustrations.

(*a*).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The appellate court must dismiss the suit.

(*b*).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

Proviso where Court is closed when period expires.

5. If the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens:

Proviso as to appeals and applications for review.

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Different periods of limitation prescribed by local laws.

6. When, by any law not mentioned in the schedule hereto annexed and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially prescribed for any suits, appeals or applications, nothing herein contained shall alter the period so prescribed.

Appeals from decrees of High Courts on original side.

And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

Legal Disability.

Legal disability.

7. If a person entitled to sue be, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the schedule hereto annexed.

Double and successive disabilities.

When he is at such time affected by two disabilities, or when before his disability has ceased he is affected by another disability, he may institute the suit within the same period after both disabilities have ceased as would otherwise have been allowed from the time so prescribed.

When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time so prescribed.

Disability of representative.

When such representative is at the date of the death affected by any disability, the rules contained in the former part of this section shall apply.

Nothing in this section shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which the suit must be brought.

Illustrations.

(*a*). The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accruer. He may institute his suit at any time within three years from the date of his attaining majority.

(*b*). A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accruer. A has, under the ordinary law, only one year remaining within which to sue. But under this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority, within which he may bring his suit.

(*c*). A right to sue accrues to Z during his minority. After the accrual, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity ceases.

(*d*). A right to sue accrues to X during his minority X dies before attaining majority and is succeeded by Y his minor son. Time runs against Y from the date of his attaining majority.

(*e*). A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accrual A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(*f*). A right to sue as landlord to recover possession from a tenant accrues to A who is an idiot. A dies three years after the accrual, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time.

Disability of one joint creditor.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

Illustrations.

(*a*) A incurs a debt to a firm of which B, C and D are partners. B is insane and C is a minor. D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.

(*b*) A incurs a debt to the same firm. B and C are insane, and D is a minor. Time will not run against any of them until they are all free from disability.

Continuous running of time.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against express trustees and their representatives.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his representatives, for the purpose of following in his or their hands such property, shall be barred by any length of time.

Explanation.—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

Suits on foreign contracts.

11. Suits in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

Foreign limitation law.

12. No foreign rule of limitations shall be a defence to a suit in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were domiciled in such country during the period prescribed by such rule.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

Exclusion of day on which right to sue accrues.

13. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.

Exclusion in case of appeals and certain applications.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper, an application to the High Court for the admission of a special appeal, and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

14. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded, unless service of a summons to appear and answer in the suit can, during such absence, be made under the Code of Civil Procedure, section 60.

Exclusion of time of defendant's absence from British India.

15. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another suit, whether in a Court of first instance or in a Court of appeal, against the same defendant or some person whom he represents, shall be excluded, where the last-mentioned suit is founded upon the same cause of action, and is instituted in good faith in a Court which from defect of jurisdiction, or other cause of a like nature, is unable to try it.

Exclusion of time of suing *bonâ fide* in Court without jurisdiction.

In computing the period of limitation prescribed for any application, the time during which the applicant has been making another application for the same relief, shall be excluded, where the last-mentioned application is made in good faith to a Court which from defect of jurisdiction, or other cause of a like nature, is unable to grant it.

Like exclusion in case of application.

Explanation 1.—In excluding the time during which a former suit or application was pending or being made, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted.

Explanation 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction, shall be deemed to be prosecuting a suit within the meaning of this section.

16. In computing the period of limitation prescribed for any suit, the institution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, shall be excluded.

Exclusion of time during which commencement of suit is stayed by injunction.

In computing the period of limitation prescribed for a suit proceedings in which have been stayed by order under the Code of Civil Procedure, section 19, the interval between the institution of the suit and the date of so staying proceedings, and the time requisite for going from the Court in which proceedings are stayed to the Court in which the suit is re-instituted, shall be excluded.

Like exclusion in case of order under Civil Procedure Code, s. 19.

17. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a suit to set aside the sale, shall be excluded.

Exclusion of time during which judgment-debtor sues to set aside execution sale.

18. When a person who would, if he were living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased capable of suing.

Effect of death before right to sue accrues.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

Nothing in the former part of this section applies to suits for the possession of immoveable property or of an hereditary office.

19. When any person having a right to sue has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

Effect of fraud.

or where any document necessary to establish such right has been fraudulently concealed,

the time limited for commencing a suit,

(*a*) against the person guilty of the fraud or accessory thereto, or,

(*b*) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

20. If a promise or acknowledgment in respect of any property or right has been made in writing signed, either personally or through a duly authorized agent, by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the promise or acknowledgment was so signed.

Effect of acknowledgment in writing.

When the writing containing the promise or acknowledgment is undated, oral evidence may be given of the time when it was signed. But oral evidence of its contents shall not be received unless it has been destroyed wrongfully by the person on whom the promise or acknowledgment would be binding.

EXPLANATION 1.—For the purposes of this section a promise or acknowledgment may be sufficient, though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery or performance has not yet come, or is accompanied by a refusal to pay, deliver or perform or is coupled with a claim to a set-off, or is addressed to any person other than the person entitled to the property or right:

but it must amount to a substantial acknowledgment of liability in respect of the property, or right in question.

EXPLANATION 2.—Nothing in this section renders one of several partners or executors chargeable by reason only of a written promise or acknowledgment signed by another of them.

Illustrations.

Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor A. Z affixes his seal, but does not sign the letter:

Z pays part of the debt and promises orally to pay the rest:

Z publishes an advertisement, requesting his creditors to bring in their claims for examination:

In none of these cases is the debt taken out of the operation of this Act.

21. When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent generally or specially authorized in this behalf,

Effect of payment of interest as such.

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent generally or specially authorized in this behalf,

Effect of part-payment of principal.

a new period of limitation, according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that, in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in the hand-writing of the person making the same, on the instrument, or in his own books, or in the books of the creditor.

Where mortgaged land is in the possession of the mortgagee, the delivery and receipt of the produce of such land shall be deemed to be a payment for the purpose of this section.

Effect of delivery and receipt of produce of mortgaged land.

22. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

Effect of substituting or adding new plaintiff or defendant.

Provided that, when a plaintiff dies, and the suit is continued by his representatives in interest, it shall, as regards them, be deemed to have been instituted when it was instituted by the deceased plaintiff:

Proviso where original plaintiff dies.

Provided also, that, when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been instituted when it was instituted against the deceased defendant.

Proviso where original defendant dies.

23. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run, upon every fresh breach; and where the breach is a continuing breach, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach continues.

Computation where there are successive breaches of contract.

Computation where the breach is continuing.

Nothing in the former part of this section applies to suits for the breach of contracts for the payment of money by instalments, where, on default made in payment of one instalment, the whole becomes due.

Illustrations.

(*a*).—A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

(*b*).—A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

24. In the case of a continuing wrong independent of contract, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the wrong continues.

Continuing wrong.

Illustration.

A diverts B's watercourse. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

25. In the case of a suit for compensation for an act lawful in itself which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues.

Suit for compensation for act becoming unlawful.

Illustration.

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation runs from the time of the subsidence.

26. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Computation of time mentioned in instruments.

Illustrations.

(*a*).—A Hindú makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(*b*).—A Hindú makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

27. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, and as of right, without interruption, and for twenty years,

Acquisition of right to easements.

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

EXPLANATION.—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced

in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Illustrations.

(*a*).—A suit is brought in 1871 for obstructing a right of way. The defendant admits the obstruction but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January 1850 to 1st January 1870. The plaintiff is entitled to judgment.

(*b*).—In a like suit also brought in 1871 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1848 to 1868. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(*c*).—In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

Exclusion in favour of reversioner of servient tenement.

28. Provided that, when any land or water upon, over, or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term, shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a deceased Hindú widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Extinguishment of right to property.

29. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

Possession by successive trespassers.

30. Where a series of trespassers adverse to one another and to the rightful owner of any immoveable property or hereditary office take and keep possession thereof for several periods each less than the period so limited, but collectively exceeding such period, the person who is in possession of such property or office when the title of the rightful owner is extinguished shall have a right to such possession.

Nothing in this section shall operate to bar any right to possession which any earlier trespasser may have against any later trespasser who has illegally dispossessed him.

SCHEDULE.

(*See section* 4).

FIRST DIVISION: SUITS.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part I.—Thirty days.	
1.—To contest an award of the Board of Revenue under Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*).	Thirty days ...	When notice of the award is delivered to the plaintiff.
	Part II.—Ninety days.	
2.—For doing, or for omitting to do, an act in pursuance of any enactment in force for the time being in British India.	Ninety days ...	When the act or omission took place.
	Part III.—Six months.	
3.—Under the Specific Relief Act, 1877, section , to recover possession of immoveable property.	Six months ...	When the dispossession occurs.
4.—Under Act No. IX of 1860 (*to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers*), section one.	Ditto ...	When the wages, hire or price of work claimed accrued due.
5.—Under the Code of Civil Procedure, chapter XXXIX (*Of summary procedure on negotiable instruments*).	Ditto ...	When the instrument sued upon becomes due and payable.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IV.—One year.	
6.—Upon a Statute, Act, Regulation or Bye-law, for a penalty or forfeiture.	One year ...	When the penalty or forfeiture is incurred.
7.—For the wages of a domestic servant, artisan or labourer not provided for by this schedule, No. 4.	Ditto ...	When the wages sued for accrue due.
8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging house.	Ditto ...	When the food or drink is delivered.
9.—For the price of lodging	Ditto ...	When the price becomes payable.
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto ...	When the purchaser takes actual possession, under the sale sought to be impeached, of the whole of the property sold.
11.—By executors, administrators or representatives under Act No. XII of 1855 (*to enable the executors, administrators or representatives to sue and be sued for certain wrongs*).	Ditto ...	The date of the death of the person wronged.
12.—By executors, administrators or representatives under Act No. XIII of 1855 (*to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong*).	Ditto ...	The date of the death of the person killed.
13.—To set aside any of the following sales:— (*a*) sale in execution of a decree of a Civil Court; (*b*) sale in pursuance of a decree or order of a Collector or other officer of revenue; (*c*) sale for arrears of Government revenue, or for any demand recoverable as such arrears; (*d*) sale of a patní táluq sold for current arrears of rent. *Explanation.*—In this clause 'patní' includes any intermediate tenure saleable for current arrears of rent.	Ditto ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
14.—To alter or set aside a decision or order of a Civil court in any proceeding other than a suit.	Ditto ...	The date of the final decision or order in the case by a Court competent to determine it finally.
15.—To set aside any act of an officer of Government in his official capacity, not herein otherwise expressly provided for.	Ditto ...	The date of the act.
16.—Against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Ditto ...	When the attachment, lease or transfer is made.
17.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Ditto ...	When the payment is made.
18.—Against Government for compensation for land acquired for public purposes.	Ditto ...	The date of determining the amount of the compensation.
19.—Like suit for compensation when the acquisition is not completed.	Ditto ...	The date of the refusal to complete.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IV.—One year—continued.	
20.—For false imprisonment	One year ...	When the imprisonment ends.
21.—For any other injury to the person ...	Ditto ...	When the injury is committed.
22.—For a malicious prosecution ...	Ditto ...	When the plaintiff is acquitted, or the prosecution is otherwise terminated.
23.—For libel	Ditto ...	When the libel is published.
24.—For slander	Ditto ...	When the words are spoken.
25.—For loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.
26.—For inducing a person to break a contract with the plaintiff.	Ditto ...	The date of the breach.
27.—For an illegal, irregular or excessive distress.	Ditto ...	The date of the distress.
28.—For wrongful seizure of moveable property under legal process.	Ditto ...	The date of the seizure.
	Part V.—Two years.	
29.—For obstructing a way or a watercourse.	Two years ...	The date of the obstruction.
30.—For diverting a watercourse ...	Ditto ...	The date of the diversion.
31.—Against a carrier for losing or injuring goods.	Ditto ...	When the loss or injury occurs.
32.—Against a carrier for delay in delivering goods.	Ditto ...	When the goods ought to be delivered.
33.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Ditto ...	When the perversion first becomes known to the person injured thereby.
34.—Under Act No. XII of 1855 (*to enable executors, administrators or representatives to sue and be sued for certain wrongs*) against an executor, administrator or other representative.	Ditto ...	When the wrong complained of is done.
35.—For compensation for any wrong, malfeasance, nonfeasance or misfeasance independent of contract and not herein specially provided for.	Ditto ...	When the wrong is done or the default happens.
36.—For the recovery of a wife ...	Ditto ...	When possession is demanded and refused.
37.—For the restitution of conjugal rights ...	Ditto ...	When restitution is demanded and refused.
	Part VI.—Three years.	
38.—For trespass upon immoveable property.	Three years ...	When the trespass takes place.
39.—For infringing copyright or any other exclusive privilege.	Ditto ...	When the infringement takes place.
40.—To restrain waste	Ditto ...	When the waste was committed.
41.—Under the Indian Succession Act, section 321, to compel a legatee to refund.	Ditto ...	When the legacy was paid.
42.—By a ward who has attained majority, to set aside a sale by his guardian.	Ditto ...	The date of the sale.
43.—To contest an award under any of the following Regulations of the Bengal Code:— VII of 1822, IX of 1825, and IX of 1833.	Ditto ...	The date of the final award or order in the case.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
44.—By a party bound by such award to recover any property comprised therein.	Three years ...	The date of the final award or order in the case.
45.—By any person bound by an order respecting the possession of property made under the Code of Criminal Procedure, chapter XL, or the Bombay Mámlatdárs' Act, or by any one claiming under such person, to recover the property comprised in such order.	Ditto ...	The date of the final order in the case.
46.—For specific moveable property lost, or acquired by theft, or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same.	Ditto ...	When the person, owner of the property, first learns in whose possession it is.
47.—For other specific moveable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same.	Ditto ...	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
48.—For the hire of animals, vehicles, boats or household furniture.	Ditto ...	When the hire becomes payable.
49.—For the balance of money advanced in payment of goods to be delivered.	Ditto ...	When the goods ought to be delivered.
50.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods.
51.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto ...	The expiry of the period of credit.
52.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ...	When the period of the proposed bill elapses.
53.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Ditto ...	The date of the sale.
54.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Ditto ...	When the work is done.
55.—For money payable for money lent ...	Ditto ...	When the loan is made.
56.—Like suit when the lender has given a cheque for the money.	Ditto ...	When the cheque is paid.
57.—For money lent under an agreement that it shall be payable on demand.	Ditto ...	When the demand is made.
58.—For money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
59.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ...	When the money is received.
60.—For money payable for interest upon money due from the defendant to the plaintiff.	Ditto ...	When the interest becomes due.
61.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto ...	When the accounts are stated, unless where the debt is made payable at a future time and then when that time arrives.
62.—For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto ...	At the time specified or upon the contingency happening.
63.—On a single bond where a day is specified for payment.	Ditto ...	The day so specified.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI—Three years—contd.	
64.—On a single bond where no such day is specified.	Three years ...	The date of executing the bond.
65.—On a bond subject to a condition ...	Ditto ...	When the condition is broken.
66.—On a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
67.—On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Ditto ...	When the bill is presented.
68.—On a bill of exchange accepted payable at a particular place.	Ditto ...	When the bill is presented at that place.
69.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
70.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Ditto ...	When the demand is made.
71.—On a promissory note or bond payable by instalments.	Ditto ...	The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment.
72.—On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one instalment, the whole shall be due.	Ditto ...	The time of the first default, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made.
73.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto ...	The time of the delivery to the payee.
74.—On a dishonoured foreign bill where protest has been made and notice given.	Ditto ...	When the notice is given.
75.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto ...	The date of the refusal to accept.
76.—Suit on a bill of exchange or promissory note not herein expressly provided for.	Ditto ...	When the bill or note becomes payable.
77.—By the acceptor of an accommodation-bill against the drawer.	Ditto ...	When the acceptor pays the amount of the bill.
78.—By a surety against the principal debtor	Ditto ...	When the surety pays the creditor.
79.—By a surety against a co-surety ...	Ditto ...	When the plaintiff pays anything in excess of his own share.
80.—Upon any other contract to indemnify	Ditto ...	When the plaintiff is actually damnified.
81.—By an attorney or vakíl for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto ...	The termination of the suit or business, or (where the attorney or vakíl properly discontinues the suit or business), the date of such discontinuance.
82.—For compensation for injury caused by an injunction wrongfully obtained.	Ditto ...	When the injunction ceases.
83.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto ...	The latest date at which any item is entered in the account by or on behalf of the defendant.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
84.—On a policy of insurance when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	Three years ...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.
85.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto ...	When the insurers elect to avoid the policy.
86.—Against a factor for an account.	Ditto ...	When the account is demanded, or where no such demand is made, when the agency terminates.
87.—By a principal against his agent for moveable property received by the latter and not accounted for.	Ditto ...	When the account is demanded and refused, or the agency terminates, whichever first happens.
88.—Other suits by principals against agents for neglect or misconduct.	Ditto ...	When the neglect or misconduct becomes known to the plaintiff.
89.—To cancel or set aside an instrument not otherwise provided for.	Ditto ...	When the facts entitling the plaintiff to have instrument cancelled or set aside become known to him.
90.—To declare the forgery of an instrument issued, or registered, or attempted to be enforced against the plaintiff.	Ditto ...	The date of the issue, registration, or attempt, whichever last happens.
91.—For property which the plaintiff has conveyed while insane.	Ditto ...	When the plaintiff is restored to sanity, and has knowledge of the conveyance.
92.—For relief on the ground of fraud ...	Ditto ...	When the fraud becomes known to the party wronged.
93.—To set aside a decree obtained by fraud.	Ditto ...	Ditto.
94.—For relief on the ground of mistake in fact.	Ditto ...	When the mistake becomes known to the plaintiff.
95.—For money paid upon an existing consideration which afterwards fails.	Ditto ...	The date of the failure.
96.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto ...	The date of the trustee's death, or, if the loss has not then been occasioned, the date of the loss.
97.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers.	Ditto ...	The date of the plaintiff's advance in excess of his own share.
98.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Ditto ...	When the right to contribution accrues.
99.—For a seaman's wages	Ditto ...	The end of the voyage during which the wages are earned.
100.—By a Muhammadan for exigible dower (*mu'ajjal*).	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
101.—By a Muhammadan for deferred dower (*mu'wajja'*).	Ditto ...	When the marriage is dissolved by death or divorce.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
102.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Three years ...	The date of the receipt.
103.—For an account and a share of the profits of a dissolved partnership.	Ditto ...	The date of the dissolution.
104.—By a Hindú manager of a joint estate for contribution in respect of a payment made by him on account of the estate.	Ditto ...	The date of the payment.
105.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto ...	When the trees are cut down.
106.—For the profits of immoveable property belonging to the plaintiff wrongfully received by the defendant.	Ditto ...	When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards set aside on appeal, the date of the decree of the appellate Court.
107.—For arrears of rent	Ditto ...	When the arrears become due.
108.—By a vendor of immoveable property to enforce his lien for unpaid purchase-money.	Ditto ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
109.—For a call by a company registered under any Statute or Act.	Ditto ...	When the call is payable.
110.—For specific performance of a contract.	Ditto ...	The date fixed for the performance, or if no such date is fixed, when the plaintiff has notice that his right is denied.
111.—For the rescission of a contract ...	Ditto ...	When the facts entitling the plaintiff to have the contract rescinded first become known to him.
112.—For the breach of any contract, express or implied, not in writing registered, and not herein specially provided for.	Ditto ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.
	Part VII.—Six years.	
113.—Upon a foreign judgment as defined in the Code of Civil Procedure.	Six years ...	The date of the judgment.
114.—On a promise or contract in writing registered.	Ditto ...	When the period of limitation would begin to run against a suit brought on a similar promise or contract not registered.
115.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	When the right to sue accrues.
	Part VIII.—Twelve years.	
116.—By an auction-purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the estate being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII.—Twelve years—continued.	
117.—To avoid incumbrances of under-tenures in a *patní táluq* or other saleable tenure sold for arrears of rent, the táluq or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.
118.—Upon a judgment obtained in British India, or a recognizance.	Ditto ...	The date of the judgment or recognizance.
119.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate.	Ditto ...	When the legacy or share becomes payable or deliverable.
120.—For possession of an hereditary office ...	Ditto ...	When the defendant, or some person through whom he claims, took possession of the office adversely to the plaintiff. *Explanation.*—An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.
121.—Suit during the life of a Hindú female by a Hindú entitled to the possession of land on her death to have an alienation made by the female declared to be void except for her life.	Ditto ...	The date of the alienation.
122.—By a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	Ditto ...	When the alienee takes possession of the property.
123.—By a Hindú excluded from joint-family property to enforce a right to share therein.	Ditto ...	The date of the exclusion.
124.—By a Hindú for arrears of maintenance or for a declaration of his right to maintenance.	Ditto ...	When the arrears are claimed and refused, or the right is denied.
125.—To establish or set aside an adoption ...	Ditto ...	The date of the adoption, or (at the option of the plaintiff) the date of the death of the adoptive father.
126.—For the resumption or assessment of rent-free land.	Ditto ...	When the right to resume or assess the land first accrued: Provided that no such suit shall be maintained where the land forms part of a permanently-settled estate, and has been held rent-free from the time of the Permanent Settlement.
127.—To establish a periodically recurring right.	Ditto ...	When the plaintiff is first refused the enjoyment of the right.
128.—For money charged upon immoveable property. *Explanation.*—The allowance and fees respectively called *málikána* and *haqqs* shall, for the purpose of this clause, be deemed to be money charged upon immoveable property.	Ditto ...	When the money sued for becomes due.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII.—Twelve years—continued.	
129.—To recover moveable property conveyed in trust, deposited or pawned and afterwards bought from the trustee, depositary or pawnee, in good faith and for value, as property to which the vendor was absolutely entitled.	Twelve years ...	The date of the purchase.
130.—To recover possession of immoveable property conveyed in trust or mortgaged and afterwards purchased from the trustee or mortgagee, in good faith and for value, as property to which the vendor was absolutely entitled.	Ditto ...	The date of the purchase.
131.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Ditto ...	When the mortgagee is first entitled to possession.
132.—By a purchaser at a private sale for possession of immoveable property sold, when the vendor was out of possession at the date of the sale.	Ditto ...	When the vendor is first entitled to possession.
133.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Ditto ...	When the execution-debtor is first entitled to possession.
134.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Ditto ...	The date of the sale.
135.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Ditto ...	The date of the dispossession.
136.—By a landlord to recover possession from a tenant.	Ditto ...	When the tenancy is determined.
137.—By a remainderman, a reversioner (other than a landlord), or a devisee, for possession of immoveable property.	Ditto ...	When his estate falls into possession.
138.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú female.	Ditto ...	When the female dies.
139.—For possession of immoveable property, when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Ditto ...	The date of the dispossession or discontinuance.
140.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Ditto ...	When the forfeiture was incurred or the condition broken.
141.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for.	Ditto ...	When the possession of the defendant, or of some person through whom he claims, became adverse to the plaintiff.
	Part IX.—Thirty years.	
142.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years.	The date of the deposit or pawn, unless where an acknowledgment of the title of the depositor or pawnor, or of his right of redemption, has before the expiration of the prescribed period been made in writing, signed by the depositary, or pawnee, or some person claiming under him, or by his agent generally or specially authorized in this behalf, and, in such case, the date of the acknowledgment.
143.—Against a mortgagee to recover possession of immoveable property mortgaged.	Thirty years ...	The date of the mortgage, unless where an acknowledgment of the title of the mortgagor or of his right of redemption has, before the expiration of the prescribed period, been made in writing, signed by the mortgagee or some person claiming under him or by his agent generally or specially authorized in this behalf, and, in such case, the date of the acknowledgment: Provided that all claims to redeem, arising under instruments of mortgage of immoveable property situate in British Burma, which have been executed before the first day of May 1863, shall be governed by the rules of limitation in force in that province immediately before the same day.
144.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Ditto ...	When any part of the principal or interest was last paid on account of the mortgage debt.
145.—Any suit in the name of the Secretary of State for India in Council.	Ditto ...	When the right to sue accrued.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

SECOND DIVISION: APPEALS.

Description of appeals.	Period of limitation.	Time when period begins to run.
146.—Under the Code of Civil Procedure to the Court of a District Judge.	Thirty days ...	The date of the decree or order appealed against.
147.—Under the Code of Criminal Procedure to any Court other than the High Court.	Ditto ...	The date of the sentence or order appealed against.
148.—Under the same Code to the High Court.	Sixty days ...	Ditto.
149.—Under the Code of Civil Procedure to the High Court.	Ninety days ...	The date of the decree or order appealed against.

SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS.

Description of application.	Period of limitation.	Time when period begins to run.
150.—Under the Code of Civil Procedure to set aside an award.	Ten days ...	When the award is submitted to the Court, and notice of the submission has been given to the persons and in manner prescribed by the High Court.
151.—For an order under section 258 of the same Code compelling a decreeholder to certify payment or adjustment.	Ditto ...	When the payment or adjustment is made.
152.—For dismissal of a suit on the ground of the plaintiff's bankruptcy or insolvency.	Ditto ...	When the plaintiff's assignee or receiver neglects or refuses to continue the suit.
153.—For leave to appear and defend a suit under chapter XXXIX of the same Code.	Ditto ...	When the summons is served.
154.—For an order under section 629 of the same Code restoring to the file a rejected application for review.	Fifteen days ...	When the application for review is rejected.
155.—By a plaintiff for an order to set aside a judgment by default.	Thirty days ...	The date of the judgment.
156.—By a defendant for an order to set aside a judgment *ex parte*.	Ditto ...	The date of executing any process for enforcing the judgment.
157.—Under the Code of Civil Procedure, by a person dispossessed of immoveable property, and disputing the right of the decreeholder to be put into possession.	Ditto ...	The date of the dispossession.
158.—To set aside a sale in execution of a decree, on the ground of irregularity in publishing or conducting the sale.	Ditto ...	The date of the sale.
159.—Complaining of resistance or obstruction to delivery of possession of immoveable property sold in execution of a decree, or of dispossession in the delivery of possession to the purchaser of such property.	Ditto ...	The date of the resistance, obstruction or dispossession.
160.—Under sections 364 or 366 of the Code of Civil Procedure by a person claiming to be the representative of a deceased plaintiff.	Ditto ...	The date of the plaintiff's death.
161.—For re-admission of an appeal dismissed for want of prosecution.	Ditto ...	The date of the dismissal.
162.—By a purchaser at an execution-sale 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.	Sixty days ...	The date of the sale.
163.—For leave to appeal as a pauper.	Ninety days ...	The date of the decree appealed against.
164.—To a High Court for the admission of a second appeal.	Ditto ...	Ditto.
165.—For a review of judgment.	Ditto ...	The date of the decree.
166.—For payment of the amount of a decree by instalments.	Six months ...	The date of the decree.
167.—Under the Code of Civil Procedure, that an award be filed in Court.	Ditto ...	The date of the award.
168.—For the execution of a decision (other than a decree or order passed in a regular suit or an appeal) of a Civil Court or of a Revenue Court.	One year ...	The date of the decision or of taking some proceeding to enforce or keep in force the decision.

SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS—continued.

Description of application.	Period of limitation.	Time when period begins to run.
169.—For the execution of a decree or order of any Civil Court not provided for by No. 172.	Three years ...	1. The date of the decree or order, or 2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or 3. (where there has been a review of judgment) the date of the decision passed on the review, or 4. (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court to enforce, or keep in force, the decree or order, or 5. (where the notice next hereinafter mentioned has been issued) the date of issuing a notice under the Code of Civil Procedure, section 248, or 6. (where the application is to enforce payment of an instalment which the decree directs to be paid at a specified date) the date so specified. *Explanation I.*—Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 4 of this Number shall take effect in favour only of such of the said persons or their representatives as it may be made by. But when the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all. Where the decree or order has been passed, severally, against more persons than one, distinguishing portions of the subject-matter as payable or deliverable by each, the application shall take effect against only such of the said persons or their representatives as it may be made against. But where the decree or order has been passed, jointly, against more persons than one, the application, if

SCHEDULE—*concluded.*

THIRD DIVISION: APPLICATIONS—concluded.

Description of application.	Period of limitation.	Time when period begins to run.
		made against any one or more of them, or against his or their representatives, shall take effect against them all. *Explanation II.*—"proper Court" means the Court whose duty it is (whether under sections 227 or 228 of the Code of Civil Procedure or otherwise) to execute the decree or order.
170.—For the execution of any such decree or order of which a certified copy has been registered under the Indian Registration Act.	Six years ...	The date of the decree or order, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review.
171.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of Her Majesty in Council.	Twelve years ...	When a present right to enforce the judgment, decree or order accrued to some person capable of releasing the right: Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing, signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be.

STATEMENT OF OBJECTS AND REASONS.

1. The Limitation Act (IX of 1871) contains, directly or indirectly, numerous references to the Code of Civil Procedure. And therefore the revision of the Code, which the Indian Legislature has resumed and hopes soon to complete, entails the revision of the Limitation Act.

2. The object of the present Bill is primarily to adapt the law of limitation to the revised Code; but the opportunity has been taken to make certain amendments which the experience of nearly six years has shown to be desirable. Of these the following are the principal:—

Preliminary.

3. Titles acquired under the old Limitation Act (XIV of 1859) or the present Act (IX of 1871) will be saved.

'Easement' is defined so as to include what is technically called a profit *à prendre*.

Limitation of Suits, Appeals and Applications.

4. Suits will not be 'instituted' for the purpose of the Act, unless the plaints are stamped in accordance with law.

5. Section 7 has been extended so as to provide for supervenient and successive disabilities.

Computation of Period of Limitation.

6. To section 15 has been added a clause providing for the exclusion of the time during which an applicant has been making a *bonâ fide* application in a Court unable to grant it.

7. Section 20 (as to the effect of acknowledgments in writing as to debts and legacies) has been extended to promises or acknowledgments in respect of any property or right, and oral evidence of the contents of the writing containing the promise or acknowledgment will not be receivable, unless it has been wrongfully destroyed by the person on whom the promise or acknowledgment would be binding.

8. Section 21 (as to the effect of payment of interest or part-payment of principal) has been made to comprise the case of delivery and receipt of the produce of mortgaged land in the possession of the mortgagee.

9. Section 24 (as to continuing nuisances) has been extended so as to cover all cases of continuing wrongs independent of contract.

Acquisition by Possession of the Ownership of Easements, Land and Hereditary Offices.

10. The exception as to light and air has been struck out of section 28 (as to exclusion in favour of the reversioner of the servient tenement). This exception complicates the law, and the reasons which led to a like exception in the English Prescription Act do not seem to apply to India.

11. Provision has been made in section 30 for the case of a series of trespassers adverse to one another and to the rightful owner of any land or hereditary office, taking and keeping possession thereof for several periods, each less than the period limited by the Act, but collectively exceeding that period. The rule adopted is that the person who is in possession when the title of the rightful owner is extinguished shall have a right to such possession. But the right to possession which any earlier trespasser may have against any later trespasser who has illegally dispossessed him is expressly saved.

The Schedule.

12. The time when the period fixed for the following suits begins to run has been altered as follows:—

No.		
9.	For the price of lodging.	When the price becomes payable.
22 (=23 of Act IX of 1871).	For a malicious prosecution.	When the plaintiff is acquitted or the prosecution is otherwise terminated.
33 (=38 of Act IX).	Against one who, having a right to use property for specific purposes, perverts it to other purposes.	When the perversion first becomes known to the person injured thereby.
46 (=47, 48, of Act IX).	For specific moveable property lost or acquired by theft or dishonest misappropriation or conversion, or for damages for wrongfully taking or detaining the same.	When the owner of the property first learns in whose possession it is.
47 (=26, 33, 34, 35 of Act IX).	For other specific moveable property, or for compensation for taking or injuring or wrongfully detaining the same.	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
83 (=87 of Act IX).	For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	The latest date at which any item is entered in the account by or on behalf of the defendant.
87 (=90 of Act IX).	By a principal against his agent for moveable property received by the latter and not accounted for.	When the account is demanded and refused, or the agency terminates, whichever first happens.
88 (= 91 of Act IX).	Other suits by principals against agents for neglect or misconduct.	When the neglect or misconduct becomes known to the plaintiff.
89 (=92 of Act IX).	To cancel or set aside an instrument not otherwise provided for.	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.
109 (=112 of Act IX).	For a call by a company registered under any Statute or Act.	When the call is payable.
111 (=114 of Act IX).	For the rescission of a contract.	When the facts entitling the plaintiff to have the contract rescinded become known to him.
122 (=125 of Act IX).	By a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	When the alienee takes possession of the property.
123 (= 127 of Act IX).	By a Hindú excluded from joint family property to enforce a right to share therein.	The date of the exclusion.

13. The period of limitation has been altered in the case of the following suits :—

No.

39 (=11 of Act IX). For infringing copyright or any other exclusive privilege : from one year to three years.

46 (=26 of Act IX). For taking or detaining lost or wrongfully acquired moveable property : from one year to three years.

47 (=48, 49 of Act IX). For wrongfully detaining other moveable property : from two years to three years.

143 (=148 of Act IX). Against a mortgagee to recover possession of immoveable property mortgaged : from sixty years to thirty years.

144 (=149 of Act IX). In a Charter Court by a mortgagee to redeem : from sixty years to thirty years.

145. Suits in the name of the Secretary of State in Council : from sixty years to thirty years.

14. The following classes of suits have been specially provided for :—

No.

40. To restrain waste.

41. To compel a legatee to refund.

42. By a ward who has attained majority to set aside a sale by his guardian.

124. By a Hindú for a declaration of his right to maintenance.

15. The following eight applications have also been provided for :—

No.

151. For an order under section 258 of the Code of Civil Procedure [No. IV] compelling a decree-holder to certify payment or adjustment.

152. For dismissal of a suit on the ground of the plaintiff's bankruptcy or insolvency.

153. For leave to appear and defend a summary suit on a negotiable instrument.

154. For an order under section 629 of the Code of Civil Procedure [No. IV] restoring to the file a rejected application for review.

160. Under sections 364 and 366 of the same Code, by a person claiming to be the representative of a deceased plaintiff.

162. By a purchaser at an execution-sale 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.

166. For payment of the amount of a decree by instalments.

171. To enforce an order of Her Majesty in Council.

16. On the other hand the Bill omits as useless the following numbers of the schedule to Act IX of 1871 :—

73. By the endorsee of a bill or promissory note against the endorser.

79. By payee against drawer, when the bill has been dishonoured by non-acceptance and afterwards by non-payment.

146. For a declaration of right to an easement.

17. In Nos. 144 and 145, the Bill provides for acknowledgments signed by the agent of a depositary, pawnee, mortgagee or some person claiming under him.

18. Lastly, in No. 169 it explains, in accordance with decided cases, when an application to execute a decree passed in favour of, or against, several persons enures in favour of, or against, them all, and when in favour of, or against, only those by, or against, whom the application is made.

A. HOBHOUSE.

CALCUTTA,
14th February 1877.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 3, 1877. { 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 21st February 1877, and was referred to a Select Committee :—

No. 5 OF 1877.

THE INDIAN LIMITATION BILL, 1877.

CONTENTS.

PREAMBLE.

SECTIONS.

PART I.

PRELIMINARY.

1. Short title.
   Commencement.
   Extent of Act.
2. Repeal of Act IX of 1871.
3. Interpretation-clause.

PART II.

LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

4. Dismissal of suits, &c., instituted, &c., after period of limitation.
5. Proviso where Court is closed when period expires.
   Proviso as to appeals and applications for review.
6. Different periods of limitation prescribed by local laws.
   Appeals from decrees of High Courts on original side.

SECTIONS.

7. Legal disability.
   Double and successive disabilities.
   Disability of representative.
8. Disability of one joint-creditor.
9. Continuous running of time.
10. Suits against express trustees and their representatives.
11. Suits on foreign contracts.
12. Foreign limitation-law.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

13. Exclusion of day on which right to sue accrues.
    Exclusions in case of appeals and certain applications.
14. Exclusion of time of defendant's absence from British India.
15. Exclusion of time of suing *bonâ fide* in Court without jurisdiction.
    Like exclusion in case of application.
16. Exclusion of time during which commencement of suit is stayed by injunction.
    Like exclusion in case of order under Civil Procedure Code, s. 19.
17. Exclusion of time during which judgment-debtor sues to set aside execution-sale.
18. Effect of death before right to sue accrues.
19. Effect of fraud.
20. Effect of acknowledgment in writing.
21. Effect of payment of interest as such.
    Effect of part-payment of principal.
    Effect of delivery and receipt of produce of mortgaged land.
22. Effect of substituting or adding new plaintiff or defendant.
    Proviso where original plaintiff dies.
    Proviso where original defendant dies.
23. Computation where there are successive breaches of contract.
    Computation where the breach is continuing.

SECTIONS.
24. Continuing wrong.
25. Suit for compensation for act becoming unlawful.
26. Computation of time mentioned in instruments.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

27. Acquisition of right to easements.
28. Exclusion in favor of reversioner of servient tenement.
29. Extinguishment of right to property.
30. Possession by successive trespassers.

SCHEDULE.

I. SUITS. II. APPEALS. III. APPLICATIONS.

A Bill for the Limitation of Suits, and for other Purposes.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; And whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. Commencement.

1. This Act may be called 'The Indian Limitation Act, 1877,' and shall come into force on the first day of July 1877.

Extent of Act.

It extends to the whole of British India; but nothing contained in sections two and three or in Parts II and III applies—

(*a*) to suits under the Indian Divorce Act, or

(*b*) to suits under Madras Regulation VI of 1831.

Repeal of Act IX of 1871.

2. Act No. IX of 1871 (*An Act for the Limitation of Suits and for other purposes*) shall be repealed.

But all references to such Act shall be read as if made to this Act; and nothing herein or in that Act contained shall be deemed to affect any title acquired under that Act or under any enactment thereby repealed.

And notwithstanding anything herein contained, any suit mentioned in No. 143, No. 144 or No. 145 of the schedule hereto annexed, may be brought within five years next after the said first day of July 1877, unless where the period prescribed for such suit by the said Act No. IX of 1871 shall have expired before the completion of the said five years.

Interpretation-clause.

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

'minor' means a person who has not completed his age of eighteen years:

'plaintiff' includes also any person from or through whom a plaintiff derives his right to sue:

'easement' includes also a right, not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another, or anything growing in, or attached to, or subsisting upon, the land of another:

'bill of exchange' includes also a hundí:

'trustee' does not include a benámídár, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title:

'suit' does not include an appeal or an application:

'registered' means duly registered under the law for the registration of documents in force at the time and place of executing the document referred to in the context:

'foreign country' means any country other than British India;

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

PART II.

LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

Dismissal of suits, &c., instituted, &c., after period of limitation.

4. Subject to the provisions contained in sections five to twenty-six (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted in ordinary cases when the plaint, stamped in accordance with the law for the time being in force, is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Illustrations.

(*a*).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The appellate court must dismiss the suit.

(*b*).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

Proviso where Court is closed when period expires.

5. If the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens:

Proviso as to appeals and applications for review.

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Different periods of limitation prescribed by local laws.

6. When, by any law not mentioned in the schedule hereto annexed and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially prescribed for any suits, appeals or applications, nothing herein contained shall alter the period so prescribed.

Appeals from decrees of High Courts on original side.

And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

Legal Disability.

Legal disability.

7. If a person entitled to sue be, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the schedule hereto annexed.

Double and successive disabilities.

When he is at such time affected by two disabilities, or when before his disability has ceased he is affected by another disability, he may institute the suit within the same period after both disabilities have ceased as would otherwise have been allowed from the time so prescribed.

When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time so prescribed.

Disability of representative.

When such representative is at the date of the death affected by any disability, the rules contained in the former part of this section shall apply.

Nothing in this section shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which the suit must be brought.

Illustrations.

(*a*). The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accruer. He may institute his suit at any time within three years from the date of his attaining majority.

(*b*). A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accruer. A has, under the ordinary law, only one year remaining within which to sue. But under this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority, within which he may bring his suit.

(*c*). A right to sue accrues to Z during his minority. After the accrual, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity ceases.

(*d*). A right to sue accrues to X during his minority. X dies before attaining majority and is succeeded by Y his minor son. Time runs against Y from the date of his attaining majority.

(*e*). A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accrual A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(*f*). A right to sue as landlord to recover possession from a tenant accrues to A who is an idiot. A dies three years after the accrual, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time.

Disability of one joint creditor.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

Illustrations.

(*a*) A incurs a debt to a firm of which B, C and D are partners. B is insane and C is a minor. D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.

(*b*) A incurs a debt to the same firm. B and C are insane, and D is a minor. Time will not run against any of them until they are all free from disability.

Continuous running of time.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against express trustees and their representatives.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his representatives, for the purpose of following in his or their hands such property, shall be barred by any length of time.

Explanation.—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

Suits on foreign contracts.

11. Suits in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

Foreign limitation law.

12. No foreign rule of limitations shall be a defence to a suit in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract; and the parties were domiciled in such country during the period prescribed by such rule.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

Exclusion of day on which right to sue accrues.

13. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.

Exclusion in case of appeals and certain applications.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper, an application to the High Court for the admission of a special appeal, and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

14. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded, unless service of a summons to appear and answer in the suit can, during such absence, be made under the Code of Civil Procedure, section 60.

Exclusion of time of defendant's absence from British India.

15. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another suit, whether in a Court of first instance or in a Court of appeal, against the same defendant or some person whom he represents, shall be excluded, where the last-mentioned suit is founded upon the same cause of action, and is instituted in good faith in a Court which from defect of jurisdiction, or other cause of a like nature, is unable to try it.

Exclusion of time of suing *bonâ fide* in Court without jurisdiction.

In computing the period of limitation prescribed for any application, the time during which the applicant has been making another application for the same relief, shall be excluded, where the last-mentioned application is made in good faith to a Court which from defect of jurisdiction, or other cause of a like nature, is unable to grant it.

Like exclusion in case of application.

Explanation 1.—In excluding the time during which a former suit or application was pending or being made, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted.

Explanation 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction, shall be deemed to be prosecuting a suit within the meaning of this section.

16. In computing the period of limitation prescribed for any suit, the institution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, shall be excluded.

Exclusion of time during which commencement of suit is stayed by injunction.

In computing the period of limitation prescribed for a suit proceedings in which have been stayed by order under the Code of Civil Procedure, section 19, the interval between the institution of the suit and the date of so staying proceedings, and the time requisite for going from the Court in which proceedings are stayed to the Court in which the suit is re-instituted, shall be excluded.

Like exclusion in case of order under Civil Procedure Code, s. 19.

17. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a suit to set aside the sale, shall be excluded.

Exclusion of time during which judgment-debtor sues to set aside execution sale.

18. When a person who would, if he were living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased capable of suing.

Effect of death before right to sue accrues.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

Nothing in the former part of this section applies to suits for the possession of immoveable property or of an hereditary office.

19. When any person having a right to sue has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

Effect of fraud.

or where any document necessary to establish such right has been fraudulently concealed,

the time limited for commencing a suit,

(*a*) against the person guilty of the fraud or accessory thereto, or,

(*b*) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

20. If a promise or acknowledgment in respect of any property or right has been made in writing signed, either personally or through a duly authorized agent, by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the promise or acknowledgment was so signed.

Effect of acknowledgment in writing.

When the writing containing the promise or acknowledgment is undated, oral evidence may be given of the time when it was signed. But oral evidence of its contents shall not be received unless it has been destroyed wrongfully by the person on whom the promise or acknowledgment would be binding.

EXPLANATION 1.—For the purposes of this section a promise or acknowledgment may be sufficient, though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery or performance has not yet come, or is accompanied by a refusal to pay, deliver or perform or is coupled with a claim to a set-off, or is addressed to any person other than the person entitled to the property or right:

but it must amount to a substantial acknowledgment of liability in respect of the property, or right in question.

EXPLANATION 2.—Nothing in this section renders one of several partners or executors chargeable by reason only of a written promise or acknowledgment signed by another of them.

Illustrations.

Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor A. Z affixes his seal, but does not sign the letter:

Z pays part of the debt and promises orally to pay the rest:

Z publishes an advertisement, requesting his creditors to bring in their claims for examination:

In none of these cases is the debt taken out of the operation of this Act.

21. When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent generally or specially authorized in this behalf,

Effect of payment of interest as such.

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent generally or specially authorized in this behalf,

Effect of part-payment of principal.

a new period of limitation, according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that, in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in the hand-writing of the person making the same, on the instrument, or in his own books, or in the books of the creditor.

Where mortgaged land is in the possession of the mortgagee, the delivery and receipt of the produce of such land shall be deemed to be a payment for the purpose of this section.

Effect of delivery and receipt of produce of mortgaged land.

22. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

Effect of substituting or adding new plaintiff or defendant.

Provided that, when a plaintiff dies, and the suit is continued by his representatives in interest, it shall, as regards them, be deemed to have been instituted when it was instituted by the deceased plaintiff:

Proviso where original plaintiff dies.

Provided also, that, when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been instituted when it was instituted against the deceased defendant.

Proviso where original defendant dies.

23. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run, upon every fresh breach; and where the breach is a continuing breach, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach continues.

Computation where there are successive breaches of contract.

Computation where the breach is continuing.

Nothing in the former part of this section applies to suits for the breach of contracts for the payment of money by instalments, where, on default made in payment of one instalment, the whole becomes due.

Illustrations.

(*a*).—A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

(*b*).—A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

24. In the case of a continuing wrong independent of contract, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the wrong continues.

Continuing wrong.

Illustration.

A diverts B's watercourse. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

25. In the case of a suit for compensation for an act lawful in itself which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues.

Suit for compensation for act becoming unlawful.

Illustration.

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides The period of limitation runs from the time of the subsidence.

26. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Computation of time mentioned in instruments.

Illustrations.

(*a*).—A Hindú makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(*b*).—A Hindú makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

27. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, and as of right, without interruption, and for twenty years,

Acquisition of right to easements.

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

EXPLANATION.—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced

in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Illustrations.

(*a*).—A suit is brought in 1871 for obstructing a right of way. The defendant admits the obstruction but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January 1850 to 1st January 1870. The plaintiff is entitled to judgment.

(*b*).—In a like suit also brought in 1871 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1848 to 1868. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(*c*).—In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

Exclusion in favour of reversioner of servient tenement.

28. Provided that, when any land or water upon, over, or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term, shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a deceased Hindú widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Extinguishment of right to property.

29. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

Possession by successive trespassers.

30. Where a series of trespassers adverse to one another and to the rightful owner of any immoveable property or hereditary office take and keep possession thereof for several periods each less than the period so limited, but collectively exceeding such period, the person who is in possession of such property or office when the title of the rightful owner is extinguished shall have a right to such possession.

Nothing in this section shall operate to bar any right to possession which any earlier trespasser may have against any later trespasser who has illegally dispossessed him.

SCHEDULE.

(*See section* 4).

FIRST DIVISION: SUITS.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part I.—Thirty days.	
1.—To contest an award of the Board of Revenue under Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*).	Thirty days ...	When notice of the award is delivered to the plaintiff.
	Part II.—Ninety days.	
2.—For doing, or for omitting to do, an act in pursuance of any enactment in force for the time being in British India.	Ninety days ...	When the act or omission took place.
	Part III.—Six months.	
3.—Under the Specific Relief Act, 1877, section , to recover possession of immoveable property.	Six months ...	When the dispossession occurs.
4.—Under Act No. IX of 1860 (*to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers*), section one.	Ditto ...	When the wages, hire or price of work claimed accrued due.
5.—Under the Code of Civil Procedure, chapter XXXIX (*Of summary procedure on negotiable instruments*).	Ditto ...	When the instrument sued upon becomes due and payable.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IV.—One year.	
6.—Upon a Statute, Act, Regulation or Bye-law, for a penalty or forfeiture.	One year ...	When the penalty or forfeiture is incurred.
7.—For the wages of a domestic servant, artisan or labourer not provided for by this schedule, No. 4.	Ditto ...	When the wages sued for accrue due.
8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging house.	Ditto ...	When the food or drink is delivered.
9.—For the price of lodging	Ditto ...	When the price becomes payable.
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto ...	When the purchaser takes actual possession, under the sale sought to be impeached, of the whole of the property sold.
11.—By executors, administrators or representatives under Act No. XII of 1855 (*to enable the executors, administrators or representatives to sue and be sued for certain wrongs*).	Ditto ...	The date of the death of the person wronged.
12.—By executors, administrators or representatives under Act No. XIII of 1855 (*to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong*).	Ditto ...	The date of the death of the person killed.
13.—To set aside any of the following sales:— (*a*) sale in execution of a decree of a Civil Court; (*b*) sale in pursuance of a decree or order of a Collector or other officer of revenue; (*c*) sale for arrears of Government revenue, or for any demand recoverable as such arrears; (*d*) sale of a patní táluq sold for current arrears of rent. *Explanation.*—In this clause 'patní' includes any intermediate tenure saleable for current arrears of rent.	Ditto ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
14.—To alter or set aside a decision or order of a Civil court in any proceeding other than a suit.	Ditto ...	The date of the final decision or order in the case by a Court competent to determine it finally.
15.—To set aside any act of an officer of Government in his official capacity, not herein otherwise expressly provided for.	Ditto ...	The date of the act.
16.—Against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Ditto ...	When the attachment, lease or transfer is made.
17.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Ditto ...	When the payment is made.
18.—Against Government for compensation for land acquired for public purposes.	Ditto ...	The date of determining the amount of the compensation.
19.—Like suit for compensation when the acquisition is not completed.	Ditto ...	The date of the refusal to complete.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IV.—One year—continued.	
20.—For false imprisonment	One year ...	When the imprisonment ends.
21.—For any other injury to the person ...	Ditto ...	When the injury is committed.
22.—For a malicious prosecution ...	Ditto ...	When the plaintiff is acquitted, or the prosecution is otherwise terminated.
23.—For libel	Ditto ...	When the libel is published.
24.—For slander	Ditto ...	When the words are spoken.
25.—For loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.
26.—For inducing a person to break a contract with the plaintiff.	Ditto ...	The date of the breach.
27.—For an illegal, irregular or excessive distress.	Ditto ...	The date of the distress.
28.—For wrongful seizure of moveable property under legal process.	Ditto ...	The date of the seizure.
	Part V.—Two years.	
29.—For obstructing a way or a watercourse.	Two years ...	The date of the obstruction.
30.—For diverting a watercourse ...	Ditto ...	The date of the diversion.
31.—Against a carrier for losing or injuring goods.	Ditto ...	When the loss or injury occurs.
32.—Against a carrier for delay in delivering goods.	Ditto ...	When the goods ought to be delivered.
33.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Ditto ...	When the perversion first becomes known to the person injured thereby.
34.—Under Act No. XII of 1855 (*to enable executors, administrators or representatives to sue and be sued for certain wrongs*) against an executor, administrator or other representative.	Ditto ...	When the wrong complained of is done.
35.—For compensation for any wrong, malfeasance, nonfeasance or misfeasance independent of contract and not herein specially provided for.	Ditto ...	When the wrong is done or the default happens.
36.—For the recovery of a wife ...	Ditto ...	When possession is demanded and refused.
37.—For the restitution of conjugal rights ...	Ditto ...	When restitution is demanded and refused.
	Part VI.—Three years.	
38.—For trespass upon immoveable property.	Three years ...	When the trespass takes place.
39.—For infringing copyright or any other exclusive privilege.	Ditto ...	When the infringement takes place.
40.—To restrain waste	Ditto ...	When the waste was committed.
41.—Under the Indian Succession Act, section 321, to compel a legatee to refund.	Ditto ...	When the legacy was paid.
42.—By a ward who has attained majority, to set aside a sale by his guardian.	Ditto ...	The date of the sale.
43.—To contest an award under any of the following Regulations of the Bengal Code:— VII of 1822, IX of 1825, and IX of 1833.	Ditto ...	The date of the final award or order in the case.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
44.—By a party bound by such award to recover any property comprised therein.	Three years ...	The date of the final award or order in the case.
45.—By any person bound by an order respecting the possession of property made under the Code of Criminal Procedure, chapter XL, or the Bombay Mámlatdárs' Act, or by any one claiming under such person, to recover the property comprised in such order.	Ditto ...	The date of the final order in the case.
46.—For specific moveable property lost, or acquired by theft, or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same.	Ditto ...	When the person, owner of the property, first learns in whose possession it is.
47.—For other specific moveable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same.	Ditto ...	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
48.—For the hire of animals, vehicles, boats or household furniture.	Ditto ...	When the hire becomes payable.
49.—For the balance of money advanced in payment of goods to be delivered.	Ditto ...	When the goods ought to be delivered.
50.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods.
51.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto ...	The expiry of the period of credit.
52.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ...	When the period of the proposed bill elapses.
53.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Ditto ...	The date of the sale.
54.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Ditto ...	When the work is done.
55.—For money payable for money lent ...	Ditto ...	When the loan is made.
56.—Like suit when the lender has given a cheque for the money.	Ditto ...	When the cheque is paid.
57.—For money lent under an agreement that it shall be payable on demand.	Ditto ...	When the demand is made.
58.—For money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
59.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ...	When the money is received.
60.—For money payable for interest upon money due from the defendant to the plaintiff.	Ditto ...	When the interest becomes due.
61.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto ...	When the accounts are stated, unless where the debt is made payable at a future time and then when that time arrives.
62.—For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto ...	At the time specified or upon the contingency happening.
63.—On a single bond where a day is specified for payment.	Ditto ...	The day so specified.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI—Three years—contd.	
64.—On a single bond where no such day is specified.	Three years ...	The date of executing the bond.
65.—On a bond subject to a condition ...	Ditto ...	When the condition is broken.
66.—On a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
67.—On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Ditto ...	When the bill is presented.
68.—On a bill of exchange accepted payable at a particular place.	Ditto ...	When the bill is presented at that place.
69.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
70.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Ditto ...	When the demand is made.
71.—On a promissory note or bond payable by instalments.	Ditto ...	The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment.
72.—On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one instalment, the whole shall be due.	Ditto ...	The time of the first default, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made.
73.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto ...	The time of the delivery to the payee.
74.—On a dishonoured foreign bill where protest has been made and notice given.	Ditto ...	When the notice is given.
75.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto ...	The date of the refusal to accept.
76.—Suit on a bill of exchange or promissory note not herein expressly provided for.	Ditto ...	When the bill or note becomes payable.
77.—By the acceptor of an accommodation-bill against the drawer.	Ditto ...	When the acceptor pays the amount of the bill.
78.—By a surety against the principal debtor	Ditto ...	When the surety pays the creditor.
79.—By a surety against a co-surety ...	Ditto ...	When the plaintiff pays anything in excess of his own share.
80.—Upon any other contract to indemnify	Ditto ...	When the plaintiff is actually damnified.
81.—By an attorney or vakíl for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto ...	The termination of the suit or business, or (where the attorney or vakíl properly discontinues the suit or business), the date of such discontinuance.
82.—For compensation for injury caused by an injunction wrongfully obtained.	Ditto ...	When the injunction ceases.
83.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto ...	The latest date at which any item is entered in the account by or on behalf of the defendant.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
84.—On a policy of insurance when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	Three years ...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.
85.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto ...	When the insurers elect to avoid the policy.
86.—Against a factor for an account.	Ditto ...	When the account is demanded, or where no such demand is made, when the agency terminates.
87.—By a principal against his agent for moveable property received by the latter and not accounted for.	Ditto ...	When the account is demanded and refused, or the agency terminates, whichever first happens.
88.—Other suits by principals against agents for neglect or misconduct.	Ditto ...	When the neglect or misconduct becomes known to the plaintiff.
89.—To cancel or set aside an instrument not otherwise provided for.	Ditto ...	When the facts entitling the plaintiff to have instrument cancelled or set aside become known to him.
90.—To declare the forgery of an instrument issued, or registered, or attempted to be enforced against the plaintiff.	Ditto ...	The date of the issue, registration, or attempt, whichever last happens.
91.—For property which the plaintiff has conveyed while insane.	Ditto ...	When the plaintiff is restored to sanity, and has knowledge of the conveyance.
92.—For relief on the ground of fraud ...	Ditto ...	When the fraud becomes known to the party wronged.
93.—To set aside a decree obtained by fraud.	Ditto ...	Ditto.
94.—For relief on the ground of mistake in fact.	Ditto ...	When the mistake becomes known to the plaintiff.
95.—For money paid upon an existing consideration which afterwards fails.	Ditto ...	The date of the failure.
96.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto ...	The date of the trustee's death, or, if the loss has not then been occasioned, the date of the loss.
97.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers.	Ditto ...	The date of the plaintiff's advance in excess of his own share.
98.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Ditto ...	When the right to contribution accrues.
99.—For a seaman's wages	Ditto ...	The end of the voyage during which the wages are earned.
100.—By a Muhammadan for exigible dower (*mu'ajjal*).	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
101.—By a Muhammadan for deferred dower (*mu'wajjal*).	Ditto ...	When the marriage is dissolved by death or divorce.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
102.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Three years ...	The date of the receipt.
103.—For an account and a share of the profits of a dissolved partnership.	Ditto ...	The date of the dissolution.
104.—By a Hindú manager of a joint estate for contribution in respect of a payment made by him on account of the estate.	Ditto ...	The date of the payment.
105.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto ...	When the trees are cut down.
106.—For the profits of immoveable property belonging to the plaintiff wrongfully received by the defendant.	Ditto ...	When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards set aside on appeal, the date of the decree of the appellate Court.
107.—For arrears of rent	Ditto ...	When the arrears become due.
108.—By a vendor of immoveable property to enforce his lien for unpaid purchase-money.	Ditto ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
109.—For a call by a company registered under any Statute or Act.	Ditto ...	When the call is payable.
110.—For specific performance of a contract.	Ditto ...	The date fixed for the performance, or if no such date is fixed, when the plaintiff has notice that his right is denied.
111.—For the rescission of a contract ...	Ditto ...	When the facts entitling the plaintiff to have the contract rescinded first become known to him.
112.—For the breach of any contract, express or implied, not in writing registered, and not herein specially provided for.	Ditto ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.
	Part VII.—Six years.	
113.—Upon a foreign judgment as defined in the Code of Civil Procedure.	Six years ...	The date of the judgment.
114.—On a promise or contract in writing registered.	Ditto ...	When the period of limitation would begin to run against a suit brought on a similar promise or contract not registered.
115.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	When the right to sue accrues.
	Part VIII.—Twelve years.	
116.—By an auction-purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the estate being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII.—Twelve years—continued.	
117.—To avoid incumbrances of under-tenures in a *patní táluq* or other saleable tenure sold for arrears of rent, the táluq or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.
118.—Upon a judgment obtained in British India, or a recognizance.	Ditto ...	The date of the judgment or recognizance.
119.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate.	Ditto ...	When the legacy or share becomes payable or deliverable.
120.—For possession of an hereditary office ...	Ditto ...	When the defendant, or some person through whom he claims, took possession of the office adversely to the plaintiff. *Explanation.*—An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.
121.—Suit during the life of a Hindú female by a Hindú entitled to the possession of land on her death to have an alienation made by the female declared to be void except for her life.	Ditto ...	The date of the alienation.
122.—By a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	Ditto ...	When the alienee takes possession of the property.
123.—By a Hindú excluded from joint-family property to enforce a right to share therein.	Ditto ...	The date of the exclusion.
124.—By a Hindú for arrears of maintenance or for a declaration of his right to maintenance.	Ditto ...	When the arrears are claimed and refused, or the right is denied.
125.—To establish or set aside an adoption ...	Ditto ...	The date of the adoption, or (at the option of the plaintiff) the date of the death of the adoptive father.
126.—For the resumption or assessment of rent-free land.	Ditto ...	When the right to resume or assess the land first accrued: Provided that no such suit shall be maintained where the land forms part of a permanently-settled estate, and has been held rent-free from the time of the Permanent Settlement.
127.—To establish a periodically recurring right.	Ditto ...	When the plaintiff is first refused the enjoyment of the right.
128.—For money charged upon immoveable property. *Explanation.*—The allowance and fees respectively called *málikána* and *haqqs* shall, for the purpose of this clause, be deemed to be money charged upon immoveable property.	Ditto ...	When the money sued for becomes due.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII.—Twelve years—continued.	
129.—To recover moveable property conveyed in trust, deposited or pawned and afterwards bought from the trustee, depositary or pawnee, in good faith and for value, as property to which the vendor was absolutely entitled.	Twelve years ...	The date of the purchase.
130.—To recover possession of immoveable property conveyed in trust or mortgaged and afterwards purchased from the trustee or mortgagee, in good faith and for value, as property to which the vendor was absolutely entitled.	Ditto ...	The date of the purchase.
131.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Ditto ...	When the mortgagee is first entitled to possession.
132.—By a purchaser at a private sale for possession of immoveable property sold, when the vendor was out of possession at the date of the sale.	Ditto ...	When the vendor is first entitled to possession.
133.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Ditto ...	When the execution-debtor is first entitled to possession.
134.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Ditto ...	The date of the sale.
135.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Ditto ...	The date of the dispossession.
136.—By a landlord to recover possession from a tenant.	Ditto ...	When the tenancy is determined.
137.—By a remainderman, a reversioner (other than a landlord), or a devisee, for possession of immoveable property.	Ditto ...	When his estate falls into possession.
138.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú female.	Ditto ...	When the female dies.
139.—For possession of immoveable property, when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Ditto ...	The date of the dispossession or discontinuance.
140.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Ditto ...	When the forfeiture was incurred or the condition broken.
141.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for.	Ditto ...	When the possession of the defendant, or of some person through whom he claims, became adverse to the plaintiff.
	Part IX.—Thirty years.	
142.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years.	The date of the deposit or pawn, unless where an acknowledgment of the title of the depositor or pawnor, or of his right of redemption, has before the expiration of the prescribed period been made in writing, signed by the depositary, or pawnee, or some person claiming under him, or by his agent generally or specially authorized in this behalf, and, in such case, the date of the acknowledgment.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IX—Thirty years—continued.	
143.—Against a mortgagee to recover possession of immoveable property mortgaged.	Thirty years ...	The date of the mortgage, unless where an acknowledgment of the title of the mortgagor or of his right of redemption has, before the expiration of the prescribed period, been made in writing, signed by the mortgagee or some person claiming under him or by his agent generally or specially authorized in this behalf, and, in such case, the date of the acknowledgment: Provided that all claims to redeem, arising under instruments of mortgage of immoveable property situate in British Burma, which have been executed before the first day of May 1863, shall be governed by the rules of limitation in force in that province immediately before the same day.
144.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Ditto ...	When any part of the principal or interest was last paid on account of the mortgage debt.
145.—Any suit in the name of the Secretary of State for India in Council.	Ditto ...	When the right to sue accrued.

SECOND DIVISION: APPEALS.

Description of appeals.	Period of limitation.	Time when period begins to run.
146.—Under the Code of Civil Procedure to the Court of a District Judge.	Thirty days ...	The date of the decree or order appealed against.
147.—Under the Code of Criminal Procedure to any Court other than the High Court.	Ditto ...	The date of the sentence or order appealed against.
148.—Under the same Code to the High Court.	Sixty days ...	Ditto.
149.—Under the Code of Civil Procedure to the High Court.	Ninety days ...	The date of the decree or order appealed against.

SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS.

Description of application.	Period of limitation.	Time when period begins to run.
150.—Under the Code of Civil Procedure to set aside an award.	Ten days ...	When the award is submitted to the Court, and notice of the submission has been given to the persons and in manner prescribed by the High Court.
151.—For an order under section 258 of the same Code compelling a decreeholder to certify payment or adjustment.	Ditto ...	When the payment or adjustment is made.
152.—For dismissal of a suit on the ground of the plaintiff's bankruptcy or insolvency.	Ditto ...	When the plaintiff's assignee or receiver neglects or refuses to continue the suit.
153.—For leave to appear and defend a suit under chapter XXXIX of the same Code.	Ditto ...	When the summons is served.
154.—For an order under section 629 of the same Code restoring to the file a rejected application for review.	Fifteen days ...	When the application for review is rejected.
155.—By a plaintiff for an order to set aside a judgment by default.	Thirty days ...	The date of the judgment.
156.—By a defendant for an order to set aside a judgment *ex parte*.	Ditto ...	The date of executing any process for enforcing the judgment.
157.—Under the Code of Civil Procedure, by a person dispossessed of immoveable property, and disputing the right of the decreeholder to be put into possession.	Ditto ...	The date of the dispossession.
158.—To set aside a sale in execution of a decree, on the ground of irregularity in publishing or conducting the sale.	Ditto ...	The date of the sale.
159.—Complaining of resistance or obstruction to delivery of possession of immoveable property sold in execution of a decree, or of dispossession in the delivery of possession to the purchaser of such property.	Ditto ...	The date of the resistance, obstruction or dispossession.
160.—Under sections 364 or 366 of the Code of Civil Procedure by a person claiming to be the representative of a deceased plaintiff.	Ditto ...	The date of the plaintiff's death.
161.—For re-admission of an appeal dismissed for want of prosecution.	Ditto ...	The date of the dismissal.
162.—By a purchaser at an execution-sale 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.	Sixty days ...	The date of the sale.
163.—For leave to appeal as a pauper.	Ninety days ...	The date of the decree appealed against.
164.—To a High Court for the admission of a second appeal.	Ditto ...	Ditto.
165.—For a review of judgment.	Ditto ...	The date of the decree.
166.—For payment of the amount of a decree by instalments.	Six months ...	The date of the decree.
167.—Under the Code of Civil Procedure, that an award be filed in Court.	Ditto ...	The date of the award.
168.—For the execution of a decision (other than a decree or order passed in a regular suit or an appeal) of a Civil Court or of a Revenue Court.	One year ...	The date of the decision or of taking some proceeding to enforce or keep in force the decision.

SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS—continued.

Description of application.	Period of limitation.	Time when period begins to run.
169.—For the execution of a decree or order of any Civil Court not provided for by No. 172.	Three years ...	1. The date of the decree or order, or 2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or 3. (where there has been a review of judgment) the date of the decision passed on the review, or 4. (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court to enforce, or keep in force, the decree or order, or 5. (where the notice next hereinafter mentioned has been issued) the date of issuing a notice under the Code of Civil Procedure, section 248, or 6. (where the application is to enforce payment of an instalment which the decree directs to be paid at a specified date) the date so specified. *Explanation I.*—Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 4 of this Number shall take effect in favour only of such of the said persons or their representatives as it may be made by. But when the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all. Where the decree or order has been passed, severally, against more persons than one, distinguishing portions of the subject-matter as payable or deliverable by each, the application shall take effect against only such of the said persons or their representatives as it may be made against. But where the decree or order has been passed, jointly, against more persons than one, the application, if

SCHEDULE—*concluded.*

THIRD DIVISION: APPLICATIONS—concluded.

Description of application.	Period of limitation.	Time when period begins to run.
		made against any one or more of them, or against his or their representatives, shall take effect against them all. *Explanation II.*—"proper Court" means the Court whose duty it is (whether under sections 227 or 228 of the Code of Civil Procedure or otherwise) to execute the decree or order.
170.—For the execution of any such decree or order of which a certified copy has been registered under the Indian Registration Act.	Six years ...	The date of the decree or order, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review.
171.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of Her Majesty in Council.	Twelve years ...	When a present right to enforce the judgment, decree or order accrued to some person capable of releasing the right: Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing, signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be.

STATEMENT OF OBJECTS AND REASONS.

1. The Limitation Act (IX of 1871) contains, directly or indirectly, numerous references to the Code of Civil Procedure. And therefore the revision of the Code, which the Indian Legislature has resumed and hopes soon to complete, entails the revision of the Limitation Act.

2. The object of the present Bill is primarily to adapt the law of limitation to the revised Code; but the opportunity has been taken to make certain amendments which the experience of nearly six years has shown to be desirable. Of these the following are the principal:—

Preliminary.

3. Titles acquired under the old Limitation Act (XIV of 1859) or the present Act (IX of 1871) will be saved.

'Easement' is defined so as to include what is technically called a profit *à prendre*.

Limitation of Suits, Appeals and Applications.

4. Suits will not be 'instituted' for the purpose of the Act, unless the plaints are stamped in accordance with law.

5. Section 7 has been extended so as to provide for supervenient and successive disabilities.

Computation of Period of Limitation.

6. To section 15 has been added a clause providing for the exclusion of the time during which an applicant has been making a *bonâ fide* application in a Court unable to grant it.

7. Section 20 (as to the effect of acknowledgments in writing as to debts and legacies) has been extended to promises or acknowledgments in respect of any property or right, and oral evidence of the contents of the writing containing the promise or acknowledgment will not be receivable, unless it has been wrongfully destroyed by the person on whom the promise or acknowledgment would be binding.

8. Section 21 (as to the effect of payment of interest or part-payment of principal) has been made to comprise the case of delivery and receipt of the produce of mortgaged land in the possession of the mortgagee.

9. Section 24 (as to continuing nuisances) has been extended so as to cover all cases of continuing wrongs independent of contract.

Acquisition by Possession of the Ownership of Easements, Land and Hereditary Offices.

10. The exception as to light and air has been struck out of section 28 (as to exclusion in favour of the reversioner of the servient tenement). This exception complicates the law, and the reasons which led to a like exception in the English Prescription Act do not seem to apply to India.

11. Provision has been made in section 30 for the case of a series of trespassers adverse to one another and to the rightful owner of any land or hereditary office, taking and keeping possession thereof for several periods, each less than the period limited by the Act, but collectively exceeding that period. The rule adopted is that the person who is in possession when the title of the rightful owner is extinguished shall have a right to such possession. But the right to possession which any earlier trespasser may have against any later trespasser who has illegally dispossessed him is expressly saved.

The Schedule.

12. The time when the period fixed for the following suits begins to run has been altered as follows:—

No.		
9.	For the price of lodging.	When the price becomes payable.
22 (=23 of Act IX of 1871).	For a malicious prosecution.	When the plaintiff is acquitted or the prosecution is otherwise terminated.
33 (=38 of Act IX).	Against one who, having a right to use property for specific purposes, perverts it to other purposes.	When the perversion first becomes known to the person injured thereby.
46 (=47, 48, of Act IX).	For specific moveable property lost or acquired by theft or dishonest misappropriation or conversion, or for damages for wrongfully taking or detaining the same.	When the owner of the property first learns in whose possession it is.
47 (=26, 33, 34, 35 of Act IX).	For other specific moveable property, or for compensation for taking or injuring or wrongfully detaining the same.	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
83 (=87 of Act IX).	For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	The latest date at which any item is entered in the account by or on behalf of the defendant.
87 (=90 of Act IX).	By a principal against his agent for moveable property received by the latter and not accounted for.	When the account is demanded and refused, or the agency terminates, whichever first happens.
88 (= 91 of Act IX).	Other suits by principals against agents for neglect or misconduct.	When the neglect or misconduct becomes known to the plaintiff.
89 (=92 of Act IX).	To cancel or set aside an instrument not otherwise provided for.	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.
109 (=112 of Act IX).	For a call by a company registered under any Statute or Act.	When the call is payable.
111 (=114 of Act IX).	For the rescission of a contract.	When the facts entitling the plaintiff to have the contract rescinded become known to him.
122 (=125 of Act IX).	By a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	When the alienee takes possession of the property.
123 (= 127 of Act IX).	By a Hindú excluded from joint family property to enforce a right to share therein.	The date of the exclusion.

13. The period of limitation has been altered in the case of the following suits :—

No.

39 (=11 of Act IX). For infringing copyright or any other exclusive privilege : from one year to three years.

46 (=26 of Act IX). For taking or detaining lost or wrongfully acquired moveable property : from one year to three years.

47 (=48, 49 of Act IX). For wrongfully detaining other moveable property : from two years to three years.

143 (= 148 of Act IX). Against a mortgagee to recover possession of immoveable property mortgaged : from sixty years to thirty years.

144 (=149 of Act IX). In a Charter Court by a mortgagee to redeem : from sixty years to thirty years.

145. Suits in the name of the Secretary of State in Council : from sixty years to thirty years.

14. The following classes of suits have been specially provided for :—

No.

40. To restrain waste.

41. To compel a legatee to refund.

42. By a ward who has attained majority to set aside a sale by his guardian.

124. By a Hindú for a declaration of his right to maintenance.

15. The following eight applications have also been provided for :—

No.

151. For an order under section 258 of the Code of Civil Procedure [No. IV] compelling a decree-holder to certify payment or adjustment.

152. For dismissal of a suit on the ground of the plaintiff's bankruptcy or insolvency.

153. For leave to appear and defend a summary suit on a negotiable instrument.

154. For an order under section 629 of the Code of Civil Procedure [No. IV] restoring to the file a rejected application for review.

160. Under sections 364 and 366 of the same Code, by a person claiming to be the representative of a deceased plaintiff.

162. By a purchaser at an execution-sale 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.

166. For payment of the amount of a decree by instalments.

171. To enforce an order of Her Majesty in Council.

16. On the other hand the Bill omits as useless the following numbers of the schedule to Act IX of 1871 :—

73. By the endorsee of a bill or promissory note against the endorser.

79. By payee against drawer, when the bill has been dishonoured by non-acceptance and afterwards by non-payment.

146. For a declaration of right to an easement.

17. In Nos. 144 and 145, the Bill provides for acknowledgments signed by the agent of a depositary, pawnee, mortgagee or some person claiming under him.

18. Lastly, in No. 169 it explains, in accordance with decided cases, when an application to execute a decree passed in favour of, or against, several persons enures in favour of, or against, them all, and when in favour of, or against, only those by, or against, whom the application is made.

A. HOBHOUSE.

CALCUTTA,
14th February 1877.

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 28th February 1877 :—

We, the undersigned Members of the Select Committee to which the Bill to restrict the transport of Salt by Sea was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Department of Revenue, Agriculture and Commerce, No. 201C.S., dated 24th July 1874.
" " ditto ditto ditto No. 232C.S., dated 7th July 1875, and enclosures.
" " ditto ditto ditto No. 320C.S., dated 23rd Nov. 1876, and enclosures.
" " ditto ditto ditto No. 355, dated 23rd December 1876.
Suggestions by G. H. M. Batten, Esq., dated 8th February 1877.

2. We think that the proposed Act should come into force on the West Coast of India at once, and elsewhere on such day as the Government of India directs.

3. We have saved from the operation of section 2 salt covered by rawánas granted under Madras Regulation I of 1805, section 11, clause 3.

4. We think that the power to stop, search and arrest, given by section 4, should be exercised only by officers who have reason to believe from personal knowledge or from information taken down in writing that salt is being, or has within twenty-four hours been, illegally carried. We have empowered such officers to seize vessels which they have reason to believe to be liable to confiscation under the proposed Act, and cause them to be brought into any British Indian port. We have limited their power to arrest persons without warrant to cases in which salt is actually found on board. We have provided that all salt in respect of which an offence has been committed under the proposed Act shall be liable to confiscation.

5. We have omitted as useless the section as to the summary punishment of offences against the proposed Act.

6. We have transferred the powers given to the Government of India by section 3, clauses (*b*) and (*c*), and section 4, to the Governments of Madras and Bombay, the Lieutenant Governor of Bengal and the Chief Commissioner of British Burma.

7. We recommend that the Bill thus amended be passed. But we think that it has been so altered as to require republication.

T. C. HOPE.
A. HOBHOUSE.
A. J. ARBUTHNOT.
J. R. BULLEN SMITH.
F. R. COCKERELL.
R. A. DALYELL.

I dissent from the first paragraph of section 7 of this Report.

R. A. DALYELL.

Calcutta, 19th February 1877.

No. II.

A Bill to restrict the transport of Salt by Sea.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; It is hereby enacted as follows :— Preamble.

1. This Act may be called "The Transport of Salt Act, 1877 :" Short title.

It extends to the whole of British India and, further, applies— Extent.

(*a*) to all European British subjects of Her Majesty within the territorial jurisdiction of Princes and States in India in alliance with Her Majesty ;

(*b*) to all Native Indian subjects of Her Majesty, wherever they may be :

And it shall come into force on the west coast of India at once, and elsewhere on such day as the Governor General in Council may, by notification in the *Gazette of India*, direct in this behalf. Commencement.

2. When any salt is carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both. Penalty for carrying salt in certain vessels.

3. Nothing in section two applies to— Exceptions.

(*a*) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a rawána granted under Madras Regulation I of 1805, section eleven, clause third ;

(*b*) salt covered by a pass granted by any officer whom the Government may appoint in this behalf ;

(*c*) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Government may from time to time exempt from the operation of section two.

4. When any officer of Government empowered by the Government, whether by name or office, to act under this section, has reason to believe from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by section two, he may require such vessel to be brought to, and thereupon may—

Power of stoppage, search and arrest.

(*a*) enter and search the same;

(*b*) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(*c*) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India; and

(*d*) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section two.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section four,

Penalties for resisting officer.

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

6. Every vessel in which salt is carried in contravention of this Act, the cargo on board such vessel, and all salt in respect of which an offence under this Act has been committed, shall be liable to confiscation.

Confiscation of vessel and cargo.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged (*a*) by the Chief Customs Authority, or (*b*) by such other officer as the Local Government may from time to time appoint in this behalf.

Whenever any Customs officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs Authority, or such other officer as aforesaid, who may, if satisfied on such report, or after making such enquiry as he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

7. For the purpose of the adjudication of penalties under section two or section five, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.

Jurisdiction.

8. In this Act 'the Government' means the Governor of Madras in Council, the Governor of Bombay in Council, the Lieutenant Governor of Bengal, or the Chief Commissioner of British Burma.

"Government" defined.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 10, 1877. { 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 21st February 1877, and was referred to a Select Committee:—

No. 5 OF 1877.

THE INDIAN LIMITATION BILL, 1877.

CONTENTS.

PREAMBLE.

SECTIONS.

PART I.
PRELIMINARY.

1. Short title.
   Commencement.
   Extent of Act.
2. Repeal of Act IX of 1871.
3. Interpretation-clause.

PART II.
LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

4. Dismissal of suits, &c., instituted, &c., after period of limitation.
5. Proviso where Court is closed when period expires.
   Proviso as to appeals and applications for review.
6. Different periods of limitation prescribed by local laws.
   Appeals from decrees of High Courts on original side.
7. Legal disability.
   Double and successive disabilities.
   Disability of representative.
8. Disability of one joint-creditor.
9. Continuous running of time.
10. Suits against express trustees and their representatives.
11. Suits on foreign contracts.
12. Foreign limitation-law.

PART III.
COMPUTATION OF PERIOD OF LIMITATION.

13. Exclusion of day on which right to sue accrues.
    Exclusions in case of appeals and certain applications.
14. Exclusion of time of defendant's absence from British India.
15. Exclusion of time of suing *bonâ fide* in Court without jurisdiction.
    Like exclusion in case of application.
16. Exclusion of time during which commencement of suit is stayed by injunction.
    Like exclusion in case of order under Civil Procedure Code, s. 19.
17. Exclusion of time during which judgment-debtor sues to set aside execution-sale.
18. Effect of death before right to sue accrues.
19. Effect of fraud.
20. Effect of acknowledgment in writing.
21. Effect of payment of interest as such.
    Effect of part-payment of principal.
    Effect of delivery and receipt of produce of mortgaged land.
22. Effect of substituting or adding new plaintiff or defendant.
    Proviso where original plaintiff dies.
    Proviso where original defendant dies.
23. Computation where there are successive breaches of contract.
    Computation where the breach is continuing.

SECTIONS.

24. Continuing wrong.
25. Suit for compensation for act becoming unlawful.
26. Computation of time mentioned in instruments.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

27. Acquisition of right to easements.
28. Exclusion in favor of reversioner of servient tenement.
29. Extinguishment of right to property.
30. Possession by successive trespassers.

SCHEDULE.

I. SUITS. II. APPEALS. III. APPLICATIONS.

A Bill for the Limitation of Suits, and for other Purposes.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; And whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. Commencement.

1. This Act may be called 'The Indian Limitation Act, 1877,' and shall come into force on the first day of July 1877.

Extent of Act.

It extends to the whole of British India; but nothing contained in sections two and three or in Parts II and III applies—

(*a*) to suits under the Indian Divorce Act, or

(*b*) to suits under Madras Regulation VI of 1831.

Repeal of Act IX of 1871.

2. Act No. IX of 1871 (*An Act for the Limitation of Suits and for other purposes*) shall be repealed.

But all references to such Act shall be read as if made to this Act; and nothing herein or in that Act contained shall be deemed to affect any title acquired under that Act or under any enactment thereby repealed.

And notwithstanding anything herein contained, any suit mentioned in No. 143, No. 144 or No. 145 of the schedule hereto annexed, may be brought within five years next after the said first day of July 1877, unless where the period prescribed for such suit by the said Act No. IX of 1871 shall have expired before the completion of the said five years.

Interpretation-clause.

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

'minor' means a person who has not completed his age of eighteen years:

'plaintiff' includes also any person from or through whom a plaintiff derives his right to sue:

'easement' includes also a right, not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another, or anything growing in, or attached to, or subsisting upon, the land of another:

'bill of exchange' includes also a hundí:

'trustee' does not include a benámídár, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title:

'suit' does not include an appeal or an application:

'registered' means duly registered under the law for the registration of documents in force at the time and place of executing the document referred to in the context:

'foreign country' means any country other than British India;

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

PART II.

LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

Dismissal of suits, &c., instituted, &c., after period of limitation.

4. Subject to the provisions contained in sections five to twenty-six (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted in ordinary cases when the plaint, stamped in accordance with the law for the time being in force, is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Illustrations.

(*a*).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The appellate court must dismiss the suit.

(*b*).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

Proviso where Court is closed when period expires.

5. If the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens:

Proviso as to appeals and applications for review.

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Different periods of limitation prescribed by local laws.

6. When, by any law not mentioned in the schedule hereto annexed and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially prescribed for any suits, appeals or applications, nothing herein contained shall alter the period so prescribed.

Appeals from decrees of High Courts on original side.

And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

Legal Disability.

Legal disability.

7. If a person entitled to sue be, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the schedule hereto annexed.

Double and successive disabilities.

When he is at such time affected by two disabilities, or when before his disability has ceased he is affected by another disability, he may institute the suit within the same period after both disabilities have ceased as would otherwise have been allowed from the time so prescribed.

When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time so prescribed.

Disability of representative.

When such representative is at the date of the death affected by any disability, the rules contained in the former part of this section shall apply.

Nothing in this section shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which the suit must be brought.

Illustrations.

(*a*). The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accruer. He may institute his suit at any time within three years from the date of his attaining majority.

(*b*). A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accruer. A has, under the ordinary law, only one year remaining within which to sue. But under this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority, within which he may bring his suit.

(*c*). A right to sue accrues to Z during his minority. After the accrual, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity ceases.

(*d*). A right to sue accrues to X during his minority. X dies before attaining majority and is succeeded by Y his minor son. Time runs against Y from the date of his attaining majority.

(*e*). A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accrual A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(*f*). A right to sue as landlord to recover possession from a tenant accrues to A who is an idiot. A dies three years after the accrual, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time.

Disability of one joint creditor.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

Illustrations.

(*a*) A incurs a debt to a firm of which B, C and D are partners. B is insane and C is a minor. D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.

(*b*) A incurs a debt to the same firm. B and C are insane, and D is a minor. Time will not run against any of them until they are all free from disability.

Continuous running of time.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against express trustees and their representatives.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his representatives, for the purpose of following in his or their hands such property, shall be barred by any length of time.

Explanation.—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

Suits on foreign contracts.

11. Suits in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

Foreign limitation law.

12. No foreign rule of limitations shall be a defence to a suit in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were domiciled in such country during the period prescribed by such rule.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

Exclusion of day on which right to sue accrues.

13. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.

Exclusion in case of appeals and certain applications.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper, an application to the High Court for the admission of a special appeal, and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

14. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded, unless service of a summons to appear and answer in the suit can, during such absence, be made under the Code of Civil Procedure, section 60.

Exclusion of time of defendant's absence from British India.

15. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another suit, whether in a Court of first instance or in a Court of appeal, against the same defendant or some person whom he represents, shall be excluded, where the last-mentioned suit is founded upon the same cause of action, and is instituted in good faith in a Court which from defect of jurisdiction, or other cause of a like nature, is unable to try it.

Exclusion of time of suing *bonâ fide* in Court without jurisdiction.

In computing the period of limitation prescribed for any application, the time during which the applicant has been making another application for the same relief, shall be excluded, where the last-mentioned application is made in good faith to a Court which from defect of jurisdiction, or other cause of a like nature, is unable to grant it.

Like exclusion in case of application.

Explanation 1.—In excluding the time during which a former suit or application was pending or being made, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted.

Explanation 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction, shall be deemed to be prosecuting a suit within the meaning of this section.

16. In computing the period of limitation prescribed for any suit, the institution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, shall be excluded.

Exclusion of time during which commencement of suit is stayed by injunction.

In computing the period of limitation prescribed for a suit proceedings in which have been stayed by order under the Code of Civil Procedure, section 19, the interval between the institution of the suit and the date of so staying proceedings, and the time requisite for going from the Court in which proceedings are stayed to the Court in which the suit is re-instituted, shall be excluded.

Like exclusion in case of order under Civil Procedure Code, s. 19.

17. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a suit to set aside the sale, shall be excluded.

Exclusion of time during which judgment-debtor sues to set aside execution sale.

18. When a person who would, if he were living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased capable of suing.

Effect of death before right to sue accrues.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

Nothing in the former part of this section applies to suits for the possession of immoveable property or of an hereditary office.

19. When any person having a right to sue has by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

Effect of fraud.

or where any document necessary to establish such right has been fraudulently concealed,

the time limited for commencing a suit,

(*a*) against the person guilty of the fraud or accessory thereto, or,

(*b*) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

20. If a promise or acknowledgment in respect of any property or right has been made in writing signed, either personally or through a duly authorized agent, by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the promise or acknowledgment was so signed.

Effect of acknowledgment in writing.

When the writing containing the promise or acknowledgment is undated, oral evidence may be given of the time when it was signed. But oral evidence of its contents shall not be received unless it has been destroyed wrongfully by the person on whom the promise or acknowledgment would be binding.

EXPLANATION 1.—For the purposes of this section a promise or acknowledgment may be sufficient, though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery or performance has not yet come, or is accompanied by a refusal to pay, deliver or perform or is coupled with a claim to a set-off, or is addressed to any person other than the person entitled to the property or right:

but it must amount to a substantial acknowledgment of liability in respect of the property, or right in question.

EXPLANATION 2.—Nothing in this section renders one of several partners or executors chargeable by reason only of a written promise or acknowledgment signed by another of them.

Illustrations.

Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor A. Z affixes his seal, but does not sign the letter:

Z pays part of the debt and promises orally to pay the rest:

Z publishes an advertisement, requesting his creditors to bring in their claims for examination:

In none of these cases is the debt taken out of the operation of this Act.

21. When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent generally or specially authorized in this behalf,

Effect of payment of interest as such.

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent generally or specially authorized in this behalf,

Effect of part-payment of principal.

a new period of limitation, according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that, in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in the hand-writing of the person making the same, on the instrument, or in his own books, or in the books of the creditor.

Where mortgaged land is in the possession of the mortgagee, the delivery and receipt of the produce of such land shall be deemed to be a payment for the purpose of this section.

Effect of delivery and receipt of produce of mortgaged land.

22. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

Effect of substituting or adding new plaintiff or defendant.

Provided that, when a plaintiff dies, and the suit is continued by his representatives in interest, it shall, as regards them, be deemed to have been instituted when it was instituted by the deceased plaintiff:

Proviso where original plaintiff dies.

Provided also, that, when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been instituted when it was instituted against the deceased defendant.

Proviso where original defendant dies.

23. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run, upon every fresh breach; and where the breach is a continuing breach, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach continues.

Computation where there are successive breaches of contract.

Computation where the breach is continuing.

Nothing in the former part of this section applies to suits for the breach of contracts for the payment of money by instalments, where, on default made in payment of one instalment, the whole becomes due.

Illustrations.

(*a*).—A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

(*b*).—A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

24. In the case of a continuing wrong independent of contract, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the wrong continues.

Continuing wrong.

Illustration.

A diverts B's watercourse. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

25. In the case of a suit for compensation for an act lawful in itself which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues.

Suit for compensation for act becoming unlawful.

Illustration.

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation runs from the time of the subsidence.

26. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Computation of time mentioned in instruments.

Illustrations.

(*a*).—A Hindú makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(*b*).—A Hindú makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

27. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, and as of right, without interruption, and for twenty years,

Acquisition of right to easements.

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

EXPLANATION.—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced

in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Illustrations.

(*a*).—A suit is brought in 1871 for obstructing a right of way. The defendant admits the obstruction but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January 1850 to 1st January 1870. The plaintiff is entitled to judgment.

(*b*).—In a like suit also brought in 1871 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1848 to 1868. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(*c*).—In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

Exclusion in favour of reversioner of servient tenement.

28. Provided that, when any land or water upon, over, or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term, shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a deceased Hindú widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Extinguishment of right to property.

29. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

Possession by successive trespassers.

30. Where a series of trespassers adverse to one another and to the rightful owner of any immoveable property or hereditary office take and keep possession thereof for several periods each less than the period so limited, but collectively exceeding such period, the person who is in possession of such property or office when the title of the rightful owner is extinguished shall have a right to such possession.

Nothing in this section shall operate to bar any right to possession which any earlier trespasser may have against any later trespasser who has illegally dispossessed him.

SCHEDULE.

(*See section* 4).

FIRST DIVISION: SUITS.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part I.—Thirty days.	
1.—To contest an award of the Board of Revenue under Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*).	Thirty days ...	When notice of the award is delivered to the plaintiff.
	Part II.—Ninety days.	
2.—For doing, or for omitting to do, an act in pursuance of any enactment in force for the time being in British India.	Ninety days ...	When the act or omission took place.
	Part III.—Six months.	
3.—Under the Specific Relief Act, 1877, section , to recover possession of immoveable property.	Six months ...	When the dispossession occurs.
4.—Under Act No. IX of 1860 (*to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers*), section one.	Ditto ...	When the wages, hire or price of work claimed accrued due.
5.—Under the Code of Civil Procedure, chapter XXXIX (*Of summary procedure on negotiable instruments*).	Ditto ...	When the instrument sued upon becomes due and payable.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IV.—One year.	
6.—Upon a Statute, Act, Regulation or Bye-law, for a penalty or forfeiture.	One year ...	When the penalty or forfeiture is incurred.
7.—For the wages of a domestic servant, artisan or labourer not provided for by this schedule, No. 4.	Ditto ...	When the wages sued for accrue due.
8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging house.	Ditto ...	When the food or drink is delivered.
9.—For the price of lodging	Ditto ...	When the price becomes payable.
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto ...	When the purchaser takes actual possession, under the sale sought to be impeached, of the whole of the property sold.
11.—By executors, administrators or representatives under Act No. XII of 1855 (*to enable the executors, administrators or representatives to sue and be sued for certain wrongs*).	Ditto ...	The date of the death of the person wronged.
12.—By executors, administrators or representatives under Act No. XIII of 1855 (*to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong*).	Ditto ...	The date of the death of the person killed.
13.—To set aside any of the following sales:— (*a*) sale in execution of a decree of a Civil Court; (*b*) sale in pursuance of a decree or order of a Collector or other officer of revenue; (*c*) sale for arrears of Government revenue, or for any demand recoverable as such arrears; (*d*) sale of a patní táluq sold for current arrears of rent. *Explanation.*—In this clause 'patní' includes any intermediate tenure saleable for current arrears of rent.	Ditto ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
14.—To alter or set aside a decision or order of a Civil court in any proceeding other than a suit.	Ditto ...	The date of the final decision or order in the case by a Court competent to determine it finally.
15.—To set aside any act of an officer of Government in his official capacity, not herein otherwise expressly provided for.	Ditto ...	The date of the act.
16.—Against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Ditto ...	When the attachment, lease or transfer is made.
17.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Ditto ...	When the payment is made.
18.—Against Government for compensation for land acquired for public purposes.	Ditto ...	The date of determining the amount of the compensation.
19.—Like suit for compensation when the acquisition is not completed.	Ditto ...	The date of the refusal to complete.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IV.—One year—continued.	
20.—For false imprisonment	One year ...	When the imprisonment ends.
21.—For any other injury to the person ...	Ditto ...	When the injury is committed.
22.—For a malicious prosecution ...	Ditto ...	When the plaintiff is acquitted, or the prosecution is otherwise terminated.
23.—For libel	Ditto ...	When the libel is published.
24.—For slander	Ditto ...	When the words are spoken.
25.—For loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.
26.—For inducing a person to break a contract with the plaintiff.	Ditto ...	The date of the breach.
27.—For an illegal, irregular or excessive distress.	Ditto ...	The date of the distress.
28.—For wrongful seizure of moveable property under legal process.	Ditto ...	The date of the seizure.
	Part V.—Two years.	
29.—For obstructing a way or a watercourse.	Two years ...	The date of the obstruction.
30.—For diverting a watercourse ...	Ditto ...	The date of the diversion.
31.—Against a carrier for losing or injuring goods.	Ditto ...	When the loss or injury occurs.
32.—Against a carrier for delay in delivering goods.	Ditto ...	When the goods ought to be delivered.
33.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Ditto ...	When the perversion first becomes known to the person injured thereby.
34.—Under Act No. XII of 1855 (*to enable executors, administrators or representatives to sue and be sued for certain wrongs*) against an executor, administrator or other representative.	Ditto ...	When the wrong complained of is done.
35.—For compensation for any wrong, malfeasance, nonfeasance or misfeasance independent of contract and not herein specially provided for.	Ditto ...	When the wrong is done or the default happens.
36.—For the recovery of a wife ...	Ditto ...	When possession is demanded and refused.
37.—For the restitution of conjugal rights ...	Ditto ...	When restitution is demanded and refused.
	Part VI.—Three years.	
38.—For trespass upon immoveable property.	Three years ...	When the trespass takes place.
39.—For infringing copyright or any other exclusive privilege.	Ditto ...	When the infringement takes place.
40.—To restrain waste	Ditto ...	When the waste was committed.
41.—Under the Indian Succession Act, section 321, to compel a legatee to refund.	Ditto ...	When the legacy was paid.
42.—By a ward who has attained majority, to set aside a sale by his guardian.	Ditto ...	The date of the sale.
43.—To contest an award under any of the following Regulations of the Bengal Code:— VII of 1822, IX of 1825, and IX of 1833.	Ditto ...	The date of the final award or order in the case.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
44.—By a party bound by such award to recover any property comprised therein.	Three years ...	The date of the final award or order in the case.
45.—By any person bound by an order respecting the possession of property made under the Code of Criminal Procedure, chapter XL, or the Bombay Mámlatdárs' Act, or by any one claiming under such person, to recover the property comprised in such order.	Ditto ...	The date of the final order in the case.
46.—For specific moveable property lost, or acquired by theft, or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same.	Ditto ...	When the person, owner of the property, first learns in whose possession it is.
47.—For other specific moveable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same.	Ditto ...	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
48.—For the hire of animals, vehicles, boats or household furniture.	Ditto ...	When the hire becomes payable.
49.—For the balance of money advanced in payment of goods to be delivered.	Ditto ...	When the goods ought to be delivered.
50.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods.
51.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto ...	The expiry of the period of credit.
52.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ...	When the period of the proposed bill elapses.
53.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Ditto ...	The date of the sale.
54.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Ditto ...	When the work is done.
55.—For money payable for money lent ...	Ditto ...	When the loan is made.
56.—Like suit when the lender has given a cheque for the money.	Ditto ...	When the cheque is paid.
57.—For money lent under an agreement that it shall be payable on demand.	Ditto ...	When the demand is made.
58.—For money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
59.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ...	When the money is received.
60.—For money payable for interest upon money due from the defendant to the plaintiff.	Ditto ...	When the interest becomes due.
61.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto ...	When the accounts are stated, unless where the debt is made payable at a future time and then when that time arrives.
62.—For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto ...	At the time specified or upon the contingency happening.
63.—On a single bond where a day is specified for payment.	Ditto ...	The day so specified.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI—Three years—contd.	
64.—On a single bond where no such day is specified.	Three years ...	The date of executing the bond.
65.—On a bond subject to a condition ...	Ditto ...	When the condition is broken.
66.—On a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
67.—On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Ditto ...	When the bill is presented.
68.—On a bill of exchange accepted payable at a particular place.	Ditto ...	When the bill is presented at that place.
69.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
70.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Ditto ...	When the demand is made.
71.—On a promissory note or bond payable by instalments.	Ditto ...	The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment.
72.—On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one instalment, the whole shall be due.	Ditto ...	The time of the first default, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made.
73.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto ...	The time of the delivery to the payee.
74.—On a dishonoured foreign bill where protest has been made and notice given.	Ditto ...	When the notice is given.
75.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto ...	The date of the refusal to accept.
76.—Suit on a bill of exchange or promissory note not herein expressly provided for.	Ditto ...	When the bill or note becomes payable.
77.—By the acceptor of an accommodation-bill against the drawer.	Ditto ...	When the acceptor pays the amount of the bill.
78.—By a surety against the principal debtor	Ditto ...	When the surety pays the creditor.
79.—By a surety against a co-surety ...	Ditto ...	When the plaintiff pays anything in excess of his own share.
80.—Upon any other contract to indemnify	Ditto ...	When the plaintiff is actually damnified.
81.—By an attorney or vakíl for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto ...	The termination of the suit or business, or (where the attorney or vakíl properly discontinues the suit or business), the date of such discontinuance.
82.—For compensation for injury caused by an injunction wrongfully obtained.	Ditto ...	When the injunction ceases.
83.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto ...	The latest date at which any item is entered in the account by or on behalf of the defendant.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
84.—On a policy of insurance when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	Three years ...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.
85.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto ...	When the insurers elect to avoid the policy.
86.—Against a factor for an account.	Ditto ...	When the account is demanded, or where no such demand is made, when the agency terminates.
87.—By a principal against his agent for moveable property received by the latter and not accounted for.	Ditto ...	When the account is demanded and refused, or the agency terminates, whichever first happens.
88.—Other suits by principals against agents for neglect or misconduct.	Ditto ...	When the neglect or misconduct becomes known to the plaintiff.
89.—To cancel or set aside an instrument not otherwise provided for.	Ditto ...	When the facts entitling the plaintiff to have instrument cancelled or set aside become known to him.
90.—To declare the forgery of an instrument issued, or registered, or attempted to be enforced against the plaintiff.	Ditto ...	The date of the issue, registration, or attempt, whichever last happens.
91.—For property which the plaintiff has conveyed while insane.	Ditto ...	When the plaintiff is restored to sanity, and has knowledge of the conveyance.
92.—For relief on the ground of fraud ...	Ditto ...	When the fraud becomes known to the party wronged.
93.—To set aside a decree obtained by fraud.	Ditto ...	Ditto.
94.—For relief on the ground of mistake in fact.	Ditto ...	When the mistake becomes known to the plaintiff.
95.—For money paid upon an existing consideration which afterwards fails.	Ditto ...	The date of the failure.
96.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto ...	The date of the trustee's death, or, if the loss has not then been occasioned, the date of the loss.
97.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers.	Ditto ...	The date of the plaintiff's advance in excess of his own share.
98.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Ditto ...	When the right to contribution accrues.
99.—For a seaman's wages	Ditto ...	The end of the voyage during which the wages are earned.
100.—By a Muhammadan for exigible dower (*mu'ajjal*).	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
101.—By a Muhammadan for deferred dower (*mu'wajjal*).	Ditto ...	When the marriage is dissolved by death or divorce.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years—contd.	
102.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Three years ...	The date of the receipt.
103.—For an account and a share of the profits of a dissolved partnership.	Ditto ...	The date of the dissolution.
104.—By a Hindú manager of a joint estate for contribution in respect of a payment made by him on account of the estate.	Ditto ...	The date of the payment.
105.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto ...	When the trees are cut down.
106.—For the profits of immoveable property belonging to the plaintiff wrongfully received by the defendant.	Ditto ...	When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards set aside on appeal, the date of the decree of the appellate Court.
107.—For arrears of rent	Ditto ...	When the arrears become due.
108.—By a vendor of immoveable property to enforce his lien for unpaid purchase-money.	Ditto ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
109.—For a call by a company registered under any Statute or Act.	Ditto ...	When the call is payable.
110.—For specific performance of a contract.	Ditto ...	The date fixed for the performance, or if no such date is fixed, when the plaintiff has notice that his right is denied.
111.—For the rescission of a contract ...	Ditto ...	When the facts entitling the plaintiff to have the contract rescinded first become known to him.
112.—For the breach of any contract, express or implied, not in writing registered, and not herein specially provided for.	Ditto ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.
	Part VII.—Six years.	
113.—Upon a foreign judgment as defined in the Code of Civil Procedure.	Six years ...	The date of the judgment.
114.—On a promise or contract in writing registered.	Ditto ...	When the period of limitation would begin to run against a suit brought on a similar promise or contract not registered.
115.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	When the right to sue accrues.
	Part VIII.—Twelve years.	
116.—By an auction-purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the estate being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII.—Twelve years—continued.	
117.—To avoid incumbrances of under-tenures in a *patní táluq* or other saleable tenure sold for arrears of rent, the táluq or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.
118.—Upon a judgment obtained in British India, or a recognizance.	Ditto ...	The date of the judgment or recognizance.
119.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate.	Ditto ...	When the legacy or share becomes payable or deliverable.
120.—For possession of an hereditary office ...	Ditto ...	When the defendant, or some person through whom he claims, took possession of the office adversely to the plaintiff. *Explanation.*—An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.
121.—Suit during the life of a Hindú female by a Hindú entitled to the possession of land on her death to have an alienation made by the female declared to be void except for her life.	Ditto ...	The date of the alienation.
122.—By a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	Ditto ...	When the alienee takes possession of the property.
123.—By a Hindú excluded from joint-family property to enforce a right to share therein.	Ditto ...	The date of the exclusion.
124.—By a Hindú for arrears of maintenance or for a declaration of his right to maintenance.	Ditto ...	When the arrears are claimed and refused, or the right is denied.
125.—To establish or set aside an adoption ...	Ditto ...	The date of the adoption, or (at the option of the plaintiff) the date of the death of the adoptive father.
126.—For the resumption or assessment of rent-free land.	Ditto ...	When the right to resume or assess the land first accrued: Provided that no such suit shall be maintained where the land forms part of a permanently-settled estate, and has been held rent-free from the time of the Permanent Settlement.
127.—To establish a periodically recurring right.	Ditto ...	When the plaintiff is first refused the enjoyment of the right.
128.—For money charged upon immoveable property. *Explanation.*—The allowance and fees respectively called *málikána* and *haqqs* shall, for the purpose of this clause, be deemed to be money charged upon immoveable property.	Ditto ...	When the money sued for becomes due.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII.—Twelve years—continued.	
129.—To recover moveable property conveyed in trust, deposited or pawned and afterwards bought from the trustee, depositary or pawnee, in good faith and for value, as property to which the vendor was absolutely entitled.	Twelve years ...	The date of the purchase.
130.—To recover possession of immoveable property conveyed in trust or mortgaged and afterwards purchased from the trustee or mortgagee, in good faith and for value, as property to which the vendor was absolutely entitled.	Ditto ...	The date of the purchase.
131.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Ditto ...	When the mortgagee is first entitled to possession.
132.—By a purchaser at a private sale for possession of immoveable property sold, when the vendor was out of possession at the date of the sale.	Ditto ...	When the vendor is first entitled to possession.
133.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Ditto ...	When the execution-debtor is first entitled to possession.
134.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Ditto ...	The date of the sale.
135.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Ditto ...	The date of the dispossession.
136.—By a landlord to recover possession from a tenant.	Ditto ...	When the tenancy is determined.
137.—By a remainderman, a reversioner (other than a landlord), or a devisee, for possession of immoveable property.	Ditto ...	When his estate falls into possession.
138.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú female.	Ditto ...	When the female dies.
139.—For possession of immoveable property, when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Ditto ...	The date of the dispossession or discontinuance.
140.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Ditto ...	When the forfeiture was incurred or the condition broken.
141.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for.	Ditto ...	When the possession of the defendant, or of some person through whom he claims, became adverse to the plaintiff.
	Part IX.—Thirty years.	
142.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years.	The date of the deposit or pawn, unless where an acknowledgment of the title of the depositor or pawnor, or of his right of redemption, has before the expiration of the prescribed period been made in writing, signed by the depositary, or pawnee, or some person claiming under him, or by his agent generally or specially authorized in this behalf, and, in such case, the date of the acknowledgment.
143.—Against a mortgagee to recover possession of immoveable property mortgaged.	Thirty years ...	The date of the mortgage, unless where an acknowledgment of the title of the mortgagor or of his right of redemption has, before the expiration of the prescribed period, been made in writing, signed by the mortgagee or some person claiming under him or by his agent generally or specially authorized in this behalf, and, in such case, the date of the acknowledgment: Provided that all claims to redeem, arising under instruments of mortgage of immoveable property situate in British Burma, which have been executed before the first day of May 1863, shall be governed by the rules of limitation in force in that province immediately before the same day.
144.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Ditto ...	When any part of the principal or interest was last paid on account of the mortgage debt.
145.—Any suit in the name of the Secretary of State for India in Council.	Ditto ...	When the right to sue accrued.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

SECOND DIVISION: APPEALS.

Description of appeals.	Period of limitation.	Time when period begins to run.
146.—Under the Code of Civil Procedure to the Court of a District Judge.	Thirty days ...	The date of the decree or order appealed against.
147.—Under the Code of Criminal Procedure to any Court other than the High Court.	Ditto ...	The date of the sentence or order appealed against.
148.—Under the same Code to the High Court.	Sixty days ...	Ditto.
149.—Under the Code of Civil Procedure to the High Court.	Ninety days ...	The date of the decree or order appealed against.

SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS.

Description of application.	Period of limitation.	Time when period begins to run.
150.—Under the Code of Civil Procedure to set aside an award.	Ten days ...	When the award is submitted to the Court, and notice of the submission has been given to the persons and in manner prescribed by the High Court.
151.—For an order under section 258 of the same Code compelling a decreeholder to certify payment or adjustment.	Ditto ...	When the payment or adjustment is made.
152.—For dismissal of a suit on the ground of the plaintiff's bankruptcy or insolvency.	Ditto ...	When the plaintiff's assignee or receiver neglects or refuses to continue the suit.
153.—For leave to appear and defend a suit under chapter XXXIX of the same Code.	Ditto ...	When the summons is served.
154.—For an order under section 629 of the same Code restoring to the file a rejected application for review.	Fifteen days ...	When the application for review is rejected.
155.—By a plaintiff for an order to set aside a judgment by default.	Thirty days ...	The date of the judgment.
156.—By a defendant for an order to set aside a judgment *ex parte*.	Ditto ...	The date of executing any process for enforcing the judgment.
157.—Under the Code of Civil Procedure, by a person dispossessed of immoveable property, and disputing the right of the decreeholder to be put into possession.	Ditto ...	The date of the dispossession.
158.—To set aside a sale in execution of a decree, on the ground of irregularity in publishing or conducting the sale.	Ditto ...	The date of the sale.
159.—Complaining of resistance or obstruction to delivery of possession of immoveable property sold in execution of a decree, or of dispossession in the delivery of possession to the purchaser of such property.	Ditto ...	The date of the resistance, obstruction or dispossession.
160.—Under sections 364 or 366 of the Code of Civil Procedure by a person claiming to be the representative of a deceased plaintiff.	Ditto ...	The date of the plaintiff's death.
161.—For re-admission of an appeal dismissed for want of prosecution.	Ditto ...	The date of the dismissal.
162.—By a purchaser at an execution-sale 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.	Sixty days ...	The date of the sale.
163.—For leave to appeal as a pauper.	Ninety days ...	The date of the decree appealed against.
164.—To a High Court for the admission of a second appeal.	Ditto ...	Ditto.
165.—For a review of judgment.	Ditto ...	The date of the decree.
166.—For payment of the amount of a decree by instalments.	Six months ...	The date of the decree.
167.—Under the Code of Civil Procedure, that an award be filed in Court.	Ditto ...	The date of the award.
168.—For the execution of a decision (other than a decree or order passed in a regular suit or an appeal) of a Civil Court or of a Revenue Court.	One year ...	The date of the decision or of taking some proceeding to enforce or keep in force the decision.

SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS—continued.

Description of application.	Period of limitation.	Time when period begins to run.
169.—For the execution of a decree or order of any Civil Court not provided for by No. 172.	Three years ...	1. The date of the decree or order, or 2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or 3. (where there has been a review of judgment) the date of the decision passed on the review, or 4. (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court to enforce, or keep in force, the decree or order, or 5. (where the notice next hereinafter mentioned has been issued) the date of issuing a notice under the Code of Civil Procedure, section 248, or 6. (where the application is to enforce payment of an instalment which the decree directs to be paid at a specified date) the date so specified. *Explanation I.*—Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 4 of this Number shall take effect in favour only of such of the said persons or their representatives as it may be made by. But when the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all. Where the decree or order has been passed, severally, against more persons than one, distinguishing portions of the subject-matter as payable or deliverable by each, the application shall take effect against only such of the said persons or their representatives as it may be made against. But where the decree or order has been passed, jointly, against more persons than one, the application, if

SCHEDULE—*concluded.*

THIRD DIVISION: APPLICATIONS—concluded.

Description of application.	Period of limitation.	Time when period begins to run.
		made against any one or more of them, or against his or their representatives, shall take effect against them all. *Explanation II.*—"proper Court" means the Court whose duty it is (whether under sections 227 or 228 of the Code of Civil Procedure or otherwise) to execute the decree or order.
170.—For the execution of any such decree or order of which a certified copy has been registered under the Indian Registration Act.	Six years ...	The date of the decree or order, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review.
171.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of Her Majesty in Council.	Twelve years ...	When a present right to enforce the judgment, decree or order accrued to some person capable of releasing the right: Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing, signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be.

STATEMENT OF OBJECTS AND REASONS.

1. The Limitation Act (IX of 1871) contains, directly or indirectly, numerous references to the Code of Civil Procedure. And therefore the revision of the Code, which the Indian Legislature has resumed and hopes soon to complete, entails the revision of the Limitation Act.

2. The object of the present Bill is primarily to adapt the law of limitation to the revised Code; but the opportunity has been taken to make certain amendments which the experience of nearly six years has shown to be desirable. Of these the following are the principal:—

Preliminary.

3. Titles acquired under the old Limitation Act (XIV of 1859) or the present Act (IX of 1871) will be saved.

'Easement' is defined so as to include what is technically called a profit *à prendre*.

Limitation of Suits, Appeals and Applications.

4. Suits will not be 'instituted' for the purpose of the Act, unless the plaints are stamped in accordance with law.

5. Section 7 has been extended so as to provide for supervenient and successive disabilities.

Computation of Period of Limitation.

6. To section 15 has been added a clause providing for the exclusion of the time during which an applicant has been making a *bonâ fide* application in a Court unable to grant it.

7. Section 20 (as to the effect of acknowledgments in writing as to debts and legacies) has been extended to promises or acknowledgments in respect of any property or right, and oral evidence of the contents of the writing containing the promise or acknowledgment will not be receivable, unless it has been wrongfully destroyed by the person on whom the promise or acknowledgment would be binding.

8. Section 21 (as to the effect of payment of interest or part-payment of principal) has been made to comprise the case of delivery and receipt of the produce of mortgaged land in the possession of the mortgagee.

9. Section 24 (as to continuing nuisances) has been extended so as to cover all cases of continuing wrongs independent of contract.

Acquisition by Possession of the Ownership of Easements, Land and Hereditary Offices.

10. The exception as to light and air has been struck out of section 28 (as to exclusion in favour of the reversioner of the servient tenement). This exception complicates the law, and the reasons which led to a like exception in the English Prescription Act do not seem to apply to India.

11. Provision has been made in section 30 for the case of a series of trespassers adverse to one another and to the rightful owner of any land or hereditary office, taking and keeping possession thereof for several periods, each less than the period limited by the Act, but collectively exceeding that period. The rule adopted is that the person who is in possession when the title of the rightful owner is extinguished shall have a right to such possession. But the right to possession which any earlier trespasser may have against any later trespasser who has illegally dispossessed him is expressly saved.

The Schedule.

12. The time when the period fixed for the following suits begins to run has been altered as follows:—

No.		
9.	For the price of lodging.	When the price becomes payable.
22 (=23 of Act IX of 1871).	For a malicious prosecution.	When the plaintiff is acquitted or the prosecution is otherwise terminated.
33 (=38 of Act IX).	Against one who, having a right to use property for specific purposes, perverts it to other purposes.	When the perversion first becomes known to the person injured thereby.
46 (=47, 48, of Act IX).	For specific moveable property lost or acquired by theft or dishonest misappropriation or conversion, or for damages for wrongfully taking or detaining the same.	When the owner of the property first learns in whose possession it is.
47 (=26, 33, 34, 35 of Act IX).	For other specific moveable property, or for compensation for taking or injuring or wrongfully detaining the same.	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
83 (=87 of Act IX).	For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	The latest date at which any item is entered in the account by or on behalf of the defendant.
87 (=90 of Act IX).	By a principal against his agent for moveable property received by the latter and not accounted for.	When the account is demanded and refused, or the agency terminates, whichever first happens.
88 (= 91 of Act IX).	Other suits by principals against agents for neglect or misconduct.	When the neglect or misconduct becomes known to the plaintiff.
89 (=92 of Act IX).	To cancel or set aside an instrument not otherwise provided for.	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.
109 (=112 of Act IX).	For a call by a company registered under any Statute or Act.	When the call is payable.
111 (=114 of Act IX).	For the rescission of a contract.	When the facts entitling the plaintiff to have the contract rescinded become known to him.
122 (=125 of Act IX).	By a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	When the alienee takes possession of the property.
123 (= 127 of Act IX).	By a Hindú excluded from joint family property to enforce a right to share therein.	The date of the exclusion.

13. The period of limitation has been altered in the case of the following suits :—

No.

39 (=11 of Act IX). For infringing copyright or any other exclusive privilege : from one year to three years.

46 (=26 of Act IX). For taking or detaining lost or wrongfully acquired moveable property : from one year to three years.

47 (=48, 49 of Act IX). For wrongfully detaining other moveable property : from two years to three years.

143 (= 148 of Act IX). Against a mortgagee to recover possession of immoveable property mortgaged : from sixty years to thirty years.

144 (= 149 of Act IX). In a Charter Court by a mortgagee to redeem : from sixty years to thirty years.

145. Suits in the name of the Secretary of State in Council : from sixty years to thirty years.

14. The following classes of suits have been specially provided for :—

No.

40. To restrain waste.

41. To compel a legatee to refund.

42. By a ward who has attained majority to set aside a sale by his guardian.

124. By a Hindú for a declaration of his right to maintenance.

15. The following eight applications have also been provided for :—

No.

151. For an order under section 258 of the Code of Civil Procedure [No. IV] compelling a decree-holder to certify payment or adjustment.

152. For dismissal of a suit on the ground of the plaintiff's bankruptcy or insolvency.

153. For leave to appear and defend a summary suit on a negotiable instrument.

154. For an order under section 629 of the Code of Civil Procedure [No. IV] restoring to the file a rejected application for review.

160. Under sections 364 and 366 of the same Code, by a person claiming to be the representative of a deceased plaintiff.

162. By a purchaser at an execution-sale 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.

166. For payment of the amount of a decree by instalments.

171. To enforce an order of Her Majesty in Council.

16. On the other hand the Bill omits as useless the following numbers of the schedule to Act IX of 1871 :—

73. By the endorsee of a bill or promissory note against the endorser.

79. By payee against drawer, when the bill has been dishonoured by non-acceptance and afterwards by non-payment.

146. For a declaration of right to an easement.

17. In Nos. 144 and 145, the Bill provides for acknowledgments signed by the agent of a depositary, pawnee, mortgagee or some person claiming under him.

18. Lastly, in No. 169 it explains, in accordance with decided cases, when an application to execute a decree passed in favour of, or against, several persons enures in favour of, or against, them all, and when in favour of, or against, only those by, or against, whom the application is made.

A. HOBHOUSE.

CALCUTTA,
14th February 1877.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 17, 1877. { 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 15th March 1877 :—

No. 6 of 1877.

A Bill to amend the law relating to assignments from the general Provincial Fund established under the North-Western Provinces Local Rates Act, 1871.

WHEREAS it is expedient to authorise the Local Government of the North-Western Provinces to provide out of the general Provincial Fund established under the North-Western Provinces Local Rates Act, 1871, for payment of certain charges incurred or to be incurred on account of canals and railways in the North-Western Provinces ; It is hereby enacted as follows :— Preamble.

1. Section 10 of the said Act shall be repealed, and in lieu thereof the following shall be substituted :— Substitution of new section for section 10 of Act XVIII, 1871.

"10. The Lieutenant-Governor may from time to time assign from such Fund such amount as he thinks fit, to be applied in payment of charges incurred or to be incurred on account of such canals and railways as he, with the previous sanction of the Governor General in Council, may declare to be works of general provincial utility, and he shall from time to time allot from such Fund an amount to be applied in each district for expenditure on all or any of the following purposes :— Assignments from general fund.

(*a*) the construction, repair and maintenance of roads and communications ;

(*b*) the maintenance of the rural police and district post ;

(*c*) the construction and repair of schoolhouses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships ;

(*d*) the construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks ; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience :

Provided that the amount assigned in respect of such canals and railways shall not exceed ten per cent. of the total sum levied under this Act in the year in which the assignment was made, and that the amount allotted to be applied in each district for expenditure on all or any of the purposes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of this section shall be at least ninety per cent. of the total sum levied under this Act in such district in the year in which the allotment was made." Proviso.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make a small amendment of Act No. XVIII of 1871, which provides for the levy, in the North-Western Provinces, of rates on land for local purposes. These rates are in the first instance credited to a general Provincial Fund, from which the Lieutenant-Governor is bound to assign amounts to be applied in each district for certain specified purposes.

These are the construction and maintenance of Roads and Communications ; Rural Police ; District-post ; Education ; Hospitals ; Lunatic Asylums ; Markets ; Wells and Tanks ; and other local works likely to promote the public health, comfort, or convenience : the annual assignment made to each district must not be less than the total amount of local rates levied in it ; but any portion of such assignment which remains unexpended at the end of the year may be spent in any way which the Lieutenant-Governor thinks beneficial to the North-Western Provinces generally.

The principle is thus recognized, that these rates may, in part at least, be expended on objects of provincial utility; and, as a matter of fact, a large portion of them has been so expended. As it is not now wished to increase the burdens on the land, the present Bill proposes to authorize the Local Government to make assignments from the local rates for the purpose of meeting charges on account of Irrigation-works and Railways of provincial utility: the maximum amount of such assignments is fixed at ten per cent. of the total sum levied under the proposed Act, leaving 90 per cent. to be spent as at present; but there is no reason for anticipating that the actual proportion of the rates so assigned will amount to this maximum. The total amount of the local rates levied annually in the North-Western Provinces is about £430,000, and the proposed amendment of the law will not seriously diminish the existing grants for local purposes.

CALCUTTA;
The 16th March 1877.

J. STRACHEY.

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 15th March 1877:—

No. 7 OF 1877.

A Bill for the licensing of certain trades and dealings in the North-Western Provinces.

Preamble.

WHEREAS it is expedient that persons carrying on certain trades and dealings in the North-Western Provinces should take out licenses and pay for the same; It is hereby enacted as follows:—

Short title.

1. This Act shall be called "The North-Western Provinces License Act, 1877:"

Local extent.

It extends only to the provinces under the government of the Lieutenant-Governor of the North-Western Provinces;

Commencement.

And it shall come into force at once.

Annual licenses to be taken out.

2. Every person who, on and after the first day of April 1877, falls under any of the heads specified in the schedule hereto annexed and carries on (whether on behalf of himself or any other person) his trade or dealing, shall take out a license under this Act and shall pay for the same the annual fee mentioned in the same schedule as payable by persons of the class and grade to which he belongs: provided that, for any such license granted between the first day of November in each year, and the thirtieth day of April next ensuing, there shall be paid only one-half of such fee.

Officer to grant license.

3. Every license under this Act shall be granted by the Collector of Land Revenue of the district or place in which the person requiring such license carries on his trade or dealing: provided that, if such person carries on his trade or dealing in more than one district or place in the North-Western Provinces, the license shall be granted by the Collector of the district or place in which his principal place of business is situate.

Every such license shall be signed by the Collector granting it, or by any Assistant or Deputy Collector under the Collector's orders, and the Courts shall take judicial notice of such signature.

Particulars to be specified in the license.

4. Every such license shall specify—

(*a*) the date of the grant thereof;

(*b*) the name, father's name, caste, and trade or dealing of the licensee:

(*c*) the fee paid for the license:

(*d*) the place or places where the licensee intends to carry on trade or dealing for the ensuing year; and

(*e*) the term for which the license shall remain in force,

and shall be received in evidence as *primâ facie* proof of all matters contained therein.

Commencement and expiration of license.

5. Every such license shall have effect and continue in force from the day of the date thereof till the first day of April next after the day of the granting thereof.

Renewal of license.

6. Every person to whom any such license has been granted and who desires to continue to carry on his trade or dealing after the expiration thereof, shall take out a fresh license for that purpose for the following year, to expire on the day appointed in the last preceding section, and shall renew the same so long as he desires to continue to carry on such trade or dealing.

Collector to determine class and grade under which licensee is to be charged.

7. The Collector shall from time to time determine under which of the classes and grades mentioned in the said schedule every person to whom a license may be granted by him as aforesaid shall be charged.

List of Licensees.

Collector to prepare annual list of licensees.

8. As soon as may be after the first day of April 1877 and the first day of January in every subsequent year, the Collector shall prepare a list of the persons licensed under this Act in the district or place aforesaid. Such list shall state—

(*a*) the trade or calling of each of the persons therein named;

(*b*) the class and grade under which he is charged; and

(*c*) the fee paid for his license.

Such list shall be filed in the office of the Collector, and the list, or such part or parts thereof as he shall think fit, shall be filed in such other places as the Collector directs, and shall be open to public inspection at all reasonable times, without any payment.

Collector to issue notification showing classes and grades chargeable, &c.

9. The Collector shall, at or about the same time, issue a notification, in such form as the Local Government directs, showing the classes and grades chargeable under this Act, and the fees which members of each class and grade are charged, with such other information as the Local Government may direct.

The notification shall be published in the principal muhallas or ganjes of all towns, and in the chaupál, or other public place, in all villages concerned.

Notice to person charged.

10. So soon as may be practicable after the issue of such notification, notice shall be served on each person charged: provided that in any year it shall not be necessary that such notice shall be served on any person charged under this Act in the year immediately preceding.

Such notice shall contain—

the name, father's name, caste, and trade or dealing of the person charged;

the class and grade under which he falls;

the fee payable by him under this Act;

the date on which such payment is to be made;

the mode and place of payment and the person to whom the fee may be paid;

the penalty incurred by failure to make payment of the fee on the given date;

and shall notify that if the person so served continues his trade or dealing, payment of the amount specified in the notice must be made in the year 1877, within thirty days of receiving the notice, and within thirty days next after the first day of January of each subsequent year.

Petition of objector.

11. Any person served with such notice and objecting to the class or grade under which he is charged may, within thirty days after such service, apply by petition to the Collector in order to establish his right to have his name transferred to another class or grade or altogether removed from the list.

Verification.

The statements contained in the petition shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

Hearing of petition.

Appeal from order on petition.

12. The Collector shall fix a day for the hearing of the petition, and on the day so fixed shall hear the same and pass such order thereupon as to him shall seem fit:

Provided that if in his judgment the fee which the petitioner has been charged exceeds two per cent. upon his annual nett earnings, such excess shall, for the purpose of section eleven, be deemed a valid objection:

Provided also that if in the judgment of the Collector the nett annual earnings of the petitioner are less than two hundred rupees, the petitioner's name shall be removed from the list.

Any person dissatisfied with such order may, within fifteen days from the date thereof, present a petition of appeal to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, the Collector's order thereon, and all other documents (if any) connected with the case.

Penalties.

Penalty for carrying on business without a license.

13. If after expiry of the period mentioned in the notice served on him under section ten, for payment of the amount specified therein, any person carries on his trade or calling without having taken out a license as required by this Act, he shall be liable, by order of the Collector, to pay twice the fee with which he would otherwise have been chargeable under this Act, and on receipt of such payment, the Collector shall grant him a license.

All sums due under this section shall be recoverable as if they were arrears of land-revenue.

License to be produced on demand.

14. Every person required by this Act to take out a license, who without reasonable excuse neglects or refuses to produce and show his license when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition, shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees.

Prosecution to be at instance of Collector.

No person shall be proceeded against for any such offence except at the instance of the Collector, and there shall be no appeal from any sentence under this section.

Receivers, Courts of Wards and Trustees.

Receivers and managers chargeable.

15. Receivers or managers appointed by any Court in India, and the Courts of Wards, shall be chargeable under this Act in respect of any trade or dealing of which the income is officially in their possession or under their control.

Power to retain assessment paid by trustee, &c.

16. When any trustee, guardian, curator, committee or agent is charged under this Act in such capacity, or when any receiver appointed by any Court or Court of Wards is charged under this Act, every person and Court so charged may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such receiver or Court of Wards, retain so much as is sufficient to pay the fee charged.

Every such person or Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Municipalities.

Power to require returns from Municipalities.

17. The Collector of the District may require any Municipal Committee constituted under Act No. XV of 1873 to furnish, within a period to be specified under the orders of the Local Government, returns showing the names and numbers of persons chargeable under this Act resident within the limits of such Municipality, together with the class and grade under which they respectively fall and the fees payable by them respectively.

If the Municipal Committee fails within the period prescribed to make such returns, or if it make such returns, but the Collector of the District has reason to doubt their accuracy, he may at any time cause a return showing the names, numbers, classes and grades aforesaid to be prepared in such manner as may be prescribed by the Local Government.

Notice to Municipalities.

18. When the return mentioned in section 17 has been furnished or prepared, notice shall be served on the Municipality, calling

on it to pay to the Collector of the District, within a period to be specified in the notice, a sum calculated on such return in accordance with the provisions of this Act.

Any Municipality may appropriate any part of its revenues to the payment of the sum leviable from it under this section, or raise such further sums in addition to its existing revenue as may be needful for such payment: provided that such further sums be raised in accordance with the said Act No. XV of 1873.

Miscellaneous.

Payment of taxes raised and penalties recovered under Act.

19. All taxes raised and penalties recovered under this Act shall be paid to the credit of the Local Government, or as such Government shall from time to time direct.

Powers of Collector and Commissioner under Act may be exercised by other officers.

20. All or any of the powers and duties conferred and imposed by this Act on a Collector, an Assistant or Deputy Collector, and a Commissioner of Revenue, may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf.

Every person shall be legally bound to furnish information to any officer or person so appointed when required by him to do so.

Exemptions from Act.

21. Nothing in this Act applies to (*a*) persons being itinerant vendors only, or (*b*) persons earning their livelihood solely by agriculture.

Power to exempt and make rules.

22. The Local Government may, from time to time, with the previous sanction of the Governor General in Council,

(*a*) exempt from the operation of this Act any portion of the territories subject to such Government or any class of trade or dealings falling under the said schedule;

(*b*) make rules consistent with this Act, (1) for regulating the time and manner of collecting the fees charged under this Act, (2) for allowing to the persons employed in the collection fees not exceeding three per centum on the fees so collected charged to the licensees, and (3) generally for the guidance of officers in matters connected with the enforcement of this Act.

THE SCHEDULE ABOVE REFERRED TO.

CLASS I.

		Fee payable by licensee.
Bankers	First grade ...	Rs. 64
Wholesale-dealers in country-produce	Second grade	,, 32
	Third grade ...	,, 16

CLASS II.

		Fee payable by licensee.
Cloth-sellers ...	First grade ...	Rs. 32
Dealers in iron ...	Second grade	,, 16
Metal-vessel-sellers ...	Third grade ...	,, 8
Fuel-sellers (talwálas)		
Chaudhrís ...		
Agents		
Letters-out of conveyances and cattle ...		
Contractors (thíkadárs)		
Printers and publishers		

CLASS III.

Persons carrying on any trades or dealings not above specified.	First grade ...	Rs. 16
	Second grade	,, 8
	Third grade ...	,, 4
	Fourth grade	,, 2

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to impose a light License-tax on Traders and Dealers in the North-Western Provinces. Similar measures are in force in many large Indian towns and (under Act XIV of 1867) in the Central Provinces. The principal trades have been classified and graded, and a specific sum is put down against each class and grade: the highest license fees proposed are those on Bankers and wholesale dealers in country-produce, and they vary from Rs. 16 to Rs. 64 a year: other traders will have to pay smaller sums, which are in some cases as low as Rs. 2, and in no case exceed Rs. 32.

CALCUTTA, *16th March 1877.*

J. STRACHEY.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 24, 1877. { 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 15th March 1877:—

No. 6 OF 1877.

A Bill to amend the law relating to assignments from the general Provincial Fund established under the North-Western Provinces Local Rates Act, 1871.

Preamble.

WHEREAS it is expedient to authorise the Local Government of the North-Western Provinces to provide out of the general Provincial Fund established under the North-Western Provinces Local Rates Act, 1871, for payment of certain charges incurred or to be incurred on account of canals and railways in the North-Western Provinces; It is hereby enacted as follows:—

Substitution of new section for section 10 of Act XVIII, 1871.

1. Section 10 of the said Act shall be repealed, and in lieu thereof the following shall be substituted:—

Assignments from general fund.

"**10.** The Lieutenant-Governor may from time to time assign from such Fund such amount, as he thinks fit, to be applied in payment of charges incurred or to be incurred on account of such canals and railways as he, with the previous sanction of the Governor General in Council, may declare to be works of general provincial utility, and he shall from time to time allot from such Fund an amount to be applied in each district for expenditure on all or any of the following purposes:—

(*a*) the construction, repair and maintenance of roads and communications;

(*b*) the maintenance of the rural police and district post;

(*c*) the construction and repair of schoolhouses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships;

(*d*) the construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience:

Proviso.

Provided that the amount assigned in respect of such canals and railways shall not exceed ten per cent. of the total sum levied under this Act in the year in which the assignment was made, and that the amount allotted to be applied in each district for expenditure on all or any of the purposes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of this section shall be at least ninety per cent. of the total sum levied under this Act in such district in the year in which the allotment was made."

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make a small amendment of Act No. XVIII of 1871, which provides for the levy, in the North-Western Provinces, of rates on land for local purposes. These rates are in the first instance credited to a general Provincial Fund, from which the Lieutenant-Governor is bound to assign amounts to be applied in each district for certain specified purposes.

These are the construction and maintenance of Roads and Communications; Rural Police; District-post; Education; Hospitals; Lunatic Asylums; Markets; Wells and Tanks; and other local works likely to promote the public health, comfort, or convenience: the annual assignment made to each district must not be less than the total amount of local rates levied in it; but any portion of such assignment which remains unexpended at the end of the year may be spent in any way which the Lieutenant-Governor thinks beneficial to the North-Western Provinces generally.

The principle is thus recognized, that these rates may, in part at least, be expended on objects of provincial utility; and, as a matter of fact, a large portion of them has been so expended. As it is not now wished to increase the burdens on the land, the present Bill proposes to authorize the Local Government to make assignments from the local rates for the purpose of meeting charges on account of Irrigation-works and Railways of provincial utility: the maximum amount of such assignments is fixed at ten per cent. of the total sum levied under the proposed Act, leaving 90 per cent. to be spent as at present; but there is no reason for anticipating that the actual proportion of the rates so assigned will amount to this maximum. The total amount of the local rates levied annually in the North-Western Provinces is about £430,000, and the proposed amendment of the law will not seriously diminish the existing grants for local purposes.

CALCUTTA; *The 16th March 1877.* } J. STRACHEY.

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 15th March 1877:—

No. 7 OF 1877.

A Bill for the licensing of certain trades and dealings in the North-Western Provinces.

Preamble.

WHEREAS it is expedient that persons carrying on certain trades and dealings in the North-Western Provinces should take out licenses and pay for the same; It is hereby enacted as follows:—

Short title.

1. This Act shall be called "The North-Western Provinces License Act, 1877:"

Local extent.

It extends only to the provinces under the government of the Lieutenant-Governor of the North-Western Provinces;

Commencement.

And it shall come into force at once.

Annual licenses to be taken out.

2. Every person who, on and after the first day of April 1877, falls under any of the heads specified in the schedule hereto annexed and carries on (whether on behalf of himself or any other person) his trade or dealing, shall take out a license under this Act and shall pay for the same the annual fee mentioned in the same schedule as payable by persons of the class and grade to which he belongs: provided that, for any such license granted between the first day of November in each year, and the thirtieth day of April next ensuing, there shall be paid only one-half of such fee.

Officer to grant license.

3. Every license under this Act shall be granted by the Collector of Land Revenue of the district or place in which the person requiring such license carries on his trade or dealing: provided that, if such person carries on his trade or dealing in more than one district or place in the North-Western Provinces, the license shall be granted by the Collector of the district or place in which his principal place of business is situate.

Every such license shall be signed by the Collector granting it, or by any Assistant or Deputy Collector under the Collector's orders, and the Courts shall take judicial notice of such signature.

Particulars to be specified in the license.

4. Every such license shall specify—

(*a*) the date of the grant thereof:

(*b*) the name, father's name, caste, and trade or dealing of the licensee:

(*c*) the fee paid for the license:

(*d*) the place or places where the licensee intends to carry on trade or dealing for the ensuing year; and

(*e*) the term for which the license shall remain in force,

and shall be received in evidence as *primâ facie* proof of all matters contained therein.

Commencement and expiration of license.

5. Every such license shall have effect and continue in force from the day of the date thereof till the first day of April next after the day of the granting thereof.

Renewal of license.

6. Every person to whom any such license has been granted and who desires to continue to carry on his trade or dealing after the expiration thereof, shall take out a fresh license for that purpose for the following year, to expire on the day appointed in the last preceding section, and shall renew the same so long as he desires to continue to carry on such trade or dealing.

Collector to determine class and grade under which licensee is to be charged.

7. The Collector shall from time to time determine under which of the classes and grades mentioned in the said schedule every person to whom a license may be granted by him as aforesaid shall be charged.

List of Licensees.

Collector to prepare annual list of licensees.

8. As soon as may be after the first day of April 1877 and the first day of January in every subsequent year, the Collector shall prepare a list of the persons licensed under this Act in the district or place aforesaid. Such list shall state—

(*a*) the trade or calling of each of the persons therein named;

(*b*) the class and grade under which he is charged; and

(*c*) the fee paid for his license.

Such list shall be filed in the office of the Collector, and the list, or such part or parts thereof as he shall think fit, shall be filed in such other places as the Collector directs, and shall be open to public inspection at all reasonable times, without any payment.

Collector to issue notification showing classes and grades chargeable, &c.

9. The Collector shall, at or about the same time, issue a notification, in such form as the Local Government directs, showing the classes and grades chargeable under this Act, and the fees which members of each class and grade are charged, with such other information as the Local Government may direct.

The notification shall be published in the principal muhallas or ganjes of all towns, and in the chaupál, or other public place, in all villages concerned.

Notice to person charged.

10. So soon as may be practicable after the issue of such notification, notice shall be served on each person charged: provided that in any year it shall not be necessary that such notice shall be served on any person charged under this Act in the year immediately preceding.

Such notice shall contain—

the name, father's name, caste, and trade or dealing of the person charged;

the class and grade under which he falls;

the fee payable by him under this Act;

the date on which such payment is to be made;

the mode and place of payment and the person to whom the fee may be paid;

the penalty incurred by failure to make payment of the fee on the given date;

and shall notify that if the person so served continues his trade or dealing, payment of the amount specified in the notice must be made in the year 1877, within thirty days of receiving the notice, and within thirty days next after the first day of January of each subsequent year.

Petition of objector.

11. Any person served with such notice and objecting to the class or grade under which he is charged may, within thirty days after such service, apply by petition to the Collector in order to establish his right to have his name transferred to another class or grade or altogether removed from the list.

Verification.

The statements contained in the petition shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

Hearing of petition.

Appeal from order on petition.

12. The Collector shall fix a day for the hearing of the petition, and on the day so fixed shall hear the same and pass such order thereupon as to him shall seem fit:

Provided that if in his judgment the fee which the petitioner has been charged exceeds two per cent. upon his annual nett earnings, such excess shall, for the purpose of section eleven, be deemed a valid objection:

Provided also that if in the judgment of the Collector the nett annual earnings of the petitioner are less than two hundred rupees, the petitioner's name shall be removed from the list.

Any person dissatisfied with such order may, within fifteen days from the date thereof, present a petition of appeal to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, the Collector's order thereon, and all other documents (if any) connected with the case.

Penalties.

Penalty for carrying on business without a license.

13. If after expiry of the period mentioned in the notice served on him under section ten, for payment of the amount specified therein, any person carries on his trade or calling without having taken out a license as required by this Act, he shall be liable, by order of the Collector, to pay twice the fee with which he would otherwise have been chargeable under this Act, and on receipt of such payment, the Collector shall grant him a license.

All sums due under this section shall be recoverable as if they were arrears of land-revenue.

License to be produced on demand.

14. Every person required by this Act to take out a license, who without reasonable excuse neglects or refuses to produce and show his license when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition, shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees.

Prosecution to be at instance of Collector.

No person shall be proceeded against for any such offence except at the instance of the Collector, and there shall be no appeal from any sentence under this section.

Receivers, Courts of Wards and Trustees.

Receivers and managers chargeable.

15. Receivers or managers appointed by any Court in India, and the Courts of Wards, shall be chargeable under this Act in respect of any trade or dealing of which the income is officially in their possession or under their control.

Power to retain assessment paid by trustee, &c.

16. When any trustee, guardian, curator, committee or agent is charged under this Act in such capacity, or when any receiver appointed by any Court or Court of Wards is charged under this Act, every person and Court so charged may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such receiver or Court of Wards, retain so much as is sufficient to pay the fee charged.

Every such person or Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Municipalities.

Power to require returns from Municipalities.

17. The Collector of the District may require any Municipal Committee constituted under Act No. XV of 1873 to furnish, within a period to be specified under the orders of the Local Government, returns showing the names and numbers of persons chargeable under this Act resident within the limits of such Municipality, together with the class and grade under which they respectively fall and the fees payable by them respectively.

If the Municipal Committee fails within the period prescribed to make such returns, or if it make such returns, but the Collector of the District has reason to doubt their accuracy, he may at any time cause a return showing the names, numbers, classes and grades aforesaid to be prepared in such manner as may be prescribed by the Local Government.

Notice to Municipalities.

18. When the return mentioned in section 17 has been furnished or prepared, notice shall be served on the Municipality, calling

on it to pay to the Collector of the District, within a period to be specified in the notice, a sum calculated on such return in accordance with the provisions of this Act.

Any Municipality may appropriate any part of its revenues to the payment of the sum leviable from it under this section, or raise such further sums in addition to its existing revenue as may be needful for such payment: provided that such further sums be raised in accordance with the said Act No. XV of 1873.

Miscellaneous.

Payment of taxes raised and penalties recovered under Act.

19. All taxes raised and penalties recovered under this Act shall be paid to the credit of the Local Government, or as such Government shall from time to time direct.

Powers of Collector and Commissioner under Act may be exercised by other officers.

20. All or any of the powers and duties conferred and imposed by this Act on a Collector, an Assistant or Deputy Collector, and a Commissioner of Revenue, may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf.

Every person shall be legally bound to furnish information to any officer or person so appointed when required by him to do so.

Exemptions from Act.

21. Nothing in this Act applies to (*a*) persons being itinerant vendors only, or (*b*) persons earning their livelihood solely by agriculture.

Power to exempt and make rules.

22. The Local Government may, from time to time, with the previous sanction of the Governor General in Council,

(*a*) exempt from the operation of this Act any portion of the territories subject to such Government or any class of trade or dealings falling under the said schedule;

(*b*) make rules consistent with this Act, (1) for regulating the time and manner of collecting the fees charged under this Act, (2) for allowing to the persons employed in the collection fees not exceeding three per centum on the fees so collected charged to the licensees, and (3) generally for the guidance of officers in matters connected with the enforcement of this Act.

THE SCHEDULE ABOVE REFERRED TO.

CLASS I.

		Fee payable by licensee.
Bankers ... ... Wholesale-dealers in country-produce	First grade ...	Rs. 64
	Second grade	„ 32
	Third grade ...	„ 16

CLASS II.

		Fee payable by licensee.
Cloth-sellers ... Dealers in iron ... Metal-vessel-sellers ... Fuel-sellers (talwálas) Chaudhrís ... Agents ... ... Letters-out of conveyances and cattle ... Contractors (thíkadárs) ... ... Printers and publishers	First grade ...	Rs. 32
	Second grade	„ 16
	Third grade ...	„ 8

CLASS III.

Persons carrying on any trades or dealings not above specified.	First grade ...	Rs. 16
	Second grade	„ 8
	Third grade ...	„ 4
	Fourth grade	„ 2

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to impose a light License-tax on Traders and Dealers in the North-Western Provinces. Similar measures are in force in many large Indian towns and (under Act XIV of 1867) in the Central Provinces. The principal trades have been classified and graded, and a specific sum is put down against each class and grade: the highest license fees proposed are those on Bankers and wholesale dealers in country-produce, and they vary from Rs. 16 to Rs. 64 a year: other traders will have to pay smaller sums, which are in some cases as low as Re. 1, and in no case exceed Rs. 32.

CALCUTTA, *16th March 1877.*

J. STRACHEY.

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 1877:—

No. 8 OF 1877.

A Bill to facilitate the admission of Military Lunatics into Asylums.

Preamble.

WHEREAS it is expedient to facilitate the admission of European Military Lunatics into Asylums, and to amend the law now in force with regard to the admission thereto of Native Military Lunatics; It is hereby enacted as follows:—

Short title.

1. This Act may be called the "Military Lunatics Act, 1877:"

Local extent.

It extends to the whole of British India and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty;

Commencement.

And it shall come into force on the passing thereof.

Repeal of Act XXI of 1872.

2. Act XXI of 1872 (*to facilitate the admission of Native Military Lunatics into Asylums*) shall be repealed.

Procedure in respect of European officer or soldier declared lunatic.

3. Whenever any European officer, Warrant-officer, Non-commissioned officer, soldier or other person 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 has been declared a lunatic, in accordance with the provisions of the military regulations of the Presidency to which he belongs, and has been ordered to be forwarded to any one of the Presidency-towns, and it appears to one of the Surgeons General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs, that it is inexpedient that he should be removed to England, or that he should be detained in military custody until he can be conveniently sent to England, such Surgeon General may, if he think fit, make an order under his hand for the reception of the said lunatic into the Lunatic Asylum at Bhowanipur, Madras or Bombay, or such other Lunatic Asylum as may be duly authorized for the purpose by the Governor General in Council;

and the officer in charge of such asylum shall receive the lunatic in the asylum, and detain him therein until he is discharged therefrom, in accordance with the local military regulations in force for the time being, or until the Surgeon General applies for his transfer to the military authorities in view to his removal to England.

Report in case of Native officer or soldier appearing to be insane.

4. Whenever any Native officer, Non-commissioned officer or soldier appears to be insane, the officer commanding the regiment or detachment to which he belongs shall report the case to the general officer commanding the division or district or force in which such regiment or detachment is serving.

Examination of Native by committee.

5. Such general officer shall thereupon cause the said Native to be examined by a committee composed of at least two medical officers, or (if this be impracticable) by a regimental committee comprising the officer in command of the wing or squadron to which the Native belongs and the medical officer in charge of the corps or detachment of which such wing or squadron forms part.

Procedure on Native being found by committee to be insane.

6. If the said committee or regimental committee (as the case may be) are satisfied that the Native is insane, the officer commanding the division or district or force may, if he thinks fit, make an order under his hand for the reception of the said Native into a Lunatic Asylum, and shall then send him thither under military escort; and the officer in charge of such asylum shall receive the Native into the asylum and detain him therein until he is discharged therefrom in accordance with the local military regulations in force for the time being.

Procedure for discharge of European or Native military lunatic.

7. Whenever it appears to the officer in charge of a Lunatic Asylum that the discharge of a military lunatic, whether European or Native, is necessary either on account of his recovery, or for any other purpose, such person shall be brought before the visitors of the asylum, and on the visitors recording their opinion that the discharge should be made, the general officer commanding the division, district or force, or other officer authorized to order the admission of military lunatics into asylums, shall forthwith direct him to be discharged, and such discharge shall take place in accordance with the local military regulations in force for the time being.

Payment of expenses of lunatic.

8. The Paymaster of the military circle within which any such asylum is situate shall pay to the officer in charge of such asylum the expense of the lodging, maintenance, clothing and medicine of every lunatic, whether European or Native, received and detained under this Act.

Legalization of past receptions in asylum.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

STATEMENT OF OBJECTS AND REASONS.

It appears that at present there is no law whatever under which British soldiers afflicted with mental disease can be admitted into, or (when cured) discharged from, Lunatic Asylums in this country; and the primary object of this Bill is to legalize such admission and discharge.

At the same time the opportunity has been taken to amend the law as to the discharge of Native military lunatics. The Bill proposes to repeal Act XXI of 1872 (*to facilitate the admission of Native Military Lunatics into Asylums*) and re-enact it with the necessary addition.

H. W. NORMAN.

CALCUTTA, *The 2nd March 1877.*

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 1877:—

No. 9 OF 1877.

A Bill to revive and amend Act No. XXIII of 1867.

WHEREAS Act No. XXIII of 1867 (*for the suppression of murderous outrages in certain districts of the Panjáb*) received the assent of the Governor General on the 18th day of March 1867, and by section 17 of the said Act was limited to expire in ten years from the date of passing it; And whereas it is expedient to revive the same Act and to amend it in manner hereinafter appearing; It is hereby enacted as follows:— Preamble.

1. The said Act shall be revived and shall remain in force until the Governor General in Council otherwise directs. Act XXIII of 1867 to be revived.

2. For the word "Commissioner" wherever it occurs in the said Act, the words "Sessions Judge or Commissioner" shall be substituted. Amendment of Act XXIII of 1867.

STATEMENT OF OBJECTS AND REASONS.

The Panjáb Murderous Outrages Act, XXIII of 1867, expired on the 18th instant, and the primary object of this Bill is to revive it.

At the same time the opportunity has been taken to amend the Act by extending to the Sessions Judge the jurisdiction which it gives to the Commissioner only.

E. C. BAYLEY.

CALCUTTA,
The 19th March 1877.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MARCH 31, 1877. { 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 21st March 1877:—

No. 8 OF 1877.

A Bill to facilitate the admission of Military Lunatics into Asylums.

WHEREAS it is expedient to facilitate the admission of European Military Lunatics into Asylums, and to amend the law now in force with regard to the admission thereto of Native Military Lunatics; It is hereby enacted as follows:— Preamble.

1. This Act may be called the "Military Lunatics Act, 1877:" Short title.

It extends to the whole of British India and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty; Local extent.

And it shall come into force on the passing thereof. Commencement.

2. Act XXI of 1872 (*to facilitate the admission of Native Military Lunatics into Asylums*) shall be repealed. Repeal of Act XXI of 1872.

3. Whenever any European officer, Warrant-officer, Non-commissioned officer, soldier or other person 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 has been declared a lunatic, in accordance with the provisions of the military regulations of the Presidency to which he belongs, and has been ordered to be forwarded to any one of the Presidency-towns, and it appears to one of the Surgeons General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs, that it is inexpedient that he should be removed to England, or that he should be detained in military custody until he can be conveniently sent to England, such Surgeon General may, if he think fit, make an order under his hand for the reception of the said lunatic into the Lunatic Asylum at Bhowanipur, Madras, or Bombay, or such other Lunatic Asylum as may be duly authorized for the purpose by the Governor-General in Council; Procedure in respect of European officer or soldier declared lunatic.

and the officer in charge of such asylum shall receive the lunatic in the asylum, and detain him therein until he is discharged therefrom, in accordance with the local military regulations in force for the time being, or until the Surgeon-General applies for his transfer to the military authorities in view to his removal to England.

4. Whenever any Native officer, Non-commissioned officer or soldier appears to be insane, the officer commanding the regiment or detachment to which he belongs shall report the case to the general officer commanding the division or district or force in which such regiment or detachment is serving. Report in case of Native officer or soldier appearing to be insane.

5. Such general officer shall thereupon cause the said Native to be examined by a committee composed of at least two medical officers, or (if this be impracticable) by a regimental committee comprising the officer in command of the wing or squadron to which the Native Examination of Native by committee.

belongs and the medical officer in charge of the corps or detachment of which such wing or squadron forms part.

Procedure on Native being found by committee to be insane.

6. If the said committee or regimental committee (as the case may be) are satisfied that the Native is insane, the officer commanding the division or district or force may, if he thinks fit, make an order under his hand for the reception of the said Native into a Lunatic Asylum, and shall then send him thither under military escort; and the officer in charge of such asylum shall receive the Native into the asylum and detain him therein until he is discharged therefrom in accordance with the local military regulations in force for the time being.

Procedure for discharge of European or Native military lunatic.

7. Whenever it appears to the officer in charge of a Lunatic Asylum that the discharge of a military lunatic, whether European or Native, is necessary either on account of his recovery, or for any other purpose, such person shall be brought before the visitors of the asylum, and on the visitors recording their opinion that the discharge should be made, the general officer commanding the division, district or force, or other officer authorized to order the admission of military lunatics into asylums, shall forthwith direct him to be discharged, and such discharge shall take place in accordance with the local military regulations in force for the time being.

Payment of expenses of lunatic.

8. The Paymaster of the military circle within which any such asylum is situate shall pay to the officer in charge of such asylum the expense of the lodging, maintenance, clothing and medicine of every lunatic, whether European or Native, received and detained under this Act.

Legalization of past receptions in asylum.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

STATEMENT OF OBJECTS AND REASONS.

It appears that at present there is no law whatever under which British soldiers afflicted with mental disease can be admitted into, or (when cured) discharged from, Lunatic Asylums in this country; and the primary object of this Bill is to legalize such admission and discharge.

At the same time the opportunity has been taken to amend the law as to the discharge of Native military lunatics. The Bill proposes to repeal Act XXI of 1872 (*to facilitate the admission of Native Military Lunatics into Asylums*) and re-enact it with the necessary addition.

H. W. NORMAN.

CALCUTTA,
The 2nd March 1877.

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 28th March 1877, and was referred to a Select Committee:—

No. 10 OF 1877.

A Bill to provide for the execution of emergent works in connection with embankments in British Burma.

Preamble.

WHEREAS it is expedient to provide for the execution of emergent works in connection with embankments in British Burma; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Burma Embankment Act, 1877:"

Local extent.

It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma; but nothing herein contained applies to embankments belonging to private persons;

Commencement.

And it shall come into force on the passing thereof.

Interpretation-clause.

2. In this Act—

"Embankment."

"Embankment" means any embankment constructed for the purpose of excluding, regulating or retaining water, and includes all earthen walls, dams, canals, drains, piers, groins, sluices, buildings, water-gauges, bench-marks and other works subsidiary to any such embankment; and

"Embankment-officer."

"Embankment-officer," used with reference to an embankment, means the officer appointed by the Chief Commissioner to carry out this Act in respect of such embankment.

Circumstances under which this Act may be put in operation.

3. Whenever it appears probable to the embankment-officer that unless some work is quickly executed in connection with an embankment, loss of life or extensive damage to property will ensue, and that the labourers or materials required for the execution of such work cannot be obtained in the ordinary course in time to enable him to execute such work with the expedition necessary in order to avert such loss or damage, he may, by order under his hand, direct that the provisions of this Act shall be put into operation for the execution of such work; and thereupon

Power to impress labour.

(*a*) every able-bodied male person belonging to any class of labourers, and residing in the neighbourhood of such embankment, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist such officer in the execution of such work by labouring thereon, after the manner of his class or trade, as such officer or any person authorized by him in this behalf may direct; and

Power to take materials.

(*b*) such officer or any person authorized by him in this behalf may enter upon any immoveable property in the said neighbourhood and take possession of, appropriate and remove, any trees or bamboos, whether standing or not, and any timber, mats, rope or other materials found on such property, and use the same for the purposes of such work.

Payment for labour impressed and materials taken.

4. All persons labouring in compliance with a requisition made under section three, or whose materials may be taken under that section, shall as soon as may be reasonably practicable be paid by the embankment-officer for their labour or for such materials (as the case may be) at such rates not being less than fifteen per cent. above the market-rates for similar labour or materials for the time being prevailing in the said neighbourhood as the Chief Commissioner may from time to time by written order direct.

Compensation for damage done in taking materials.

5. When from the removal of any trees, bamboos or other materials under section three, any damage over and above the price payable for such materials under section four, results directly to any person, the embankment-officer shall pay to such person such sum as may be agreed upon as compensation for such damage, or in case of dispute as to the amount so to be paid, as the Deputy Commissioner of the district may award.

Penalties for trespass on embankments, &c.

6. Where an embankment-officer has been appointed for any embankment, any person who, without the permission of such officer—

(*a*) grazes any cattle or allows any cattle under his charge to trespass on such embankment, or

(*b*) cuts or roots out any trees, shrubs or grass growing on such embankment, or

(*c*) obstructs any drain or sluice connected with such embankment,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Certain persons to be deemed public servants.

7. Every embankment-officer and every officer authorized by an embankment-officer to act under section three, shall be deemed to be a "public servant" within the meaning of the Indian Penal Code.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to legalize and regulate the levying of labour when sudden danger threatens embankment-works in floods, and when such labour cannot be hired. The necessity for provisions of this kind became apparent in the Irrawaddy floods of 1875, when some of the embankments were breached and others overflowed. In some cases the people whose property was threatened with injury came forward cheerfully and prevented further disaster; but in others, where the danger was equally real and of greater extent, but not so immediately apparent, great difficulty was experienced in getting the people whose lives and property were jeopardized to assist in any way in saving the works.

The great losses of life and property that have occurred during the last few years all over the world prove that the works esteemed the most perfect are liable to such sudden and unforeseen failures, and almost universal experience proves that the only remedy possible to apply in such cases consists in the labour of the persons most interested being concentrated on the weaker spots under proper direction.

This Bill will therefore legalize a practice which already obtains imperfectly in Burma, and which is general where embankment-works exist.

In drawing up the details of the Bill, attention has been given to Act No. I of 1858 relating to similar works in Madras.

CALCUTTA;
The 12th March 1877.

A. CLARKE.

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 28th March 1877:—

We, the undersigned Members of the Select Committee to which the Bill for the limitation of suits and for other purposes was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Financial Department, No. 178, dated 5th May 1873.
„ Government of Bombay, No. 4418, dated 31st July 1875.
Note by Sir R. Garth, C.J., dated 8th March 1876.
„ by Secretary, Legislative Department, dated August 1876.
„ by Hon'ble Mr. Hobhouse, dated 22nd October 1876.
From Home Department, No. 1884, dated 18th December 1876.
Observations by Sir R. Garth, C.J., dated 12th January 1877.
Suggestions by Bábu Opendro Nauth Mullick, dated 2nd March 1877.
Remarks by Bábu Abinásh Chandra Bannerjee, Munsif of Agra, dated 7th March 1877.
Note by N. H. Thomson, Esq., dated 23rd March 1877.
From Department of Revenue, Agriculture and Commerce, No. 216, dated 19th March 1877, and enclosures.

2. We have postponed the commencement of the proposed Act to 1st October 1877, the day on which the Code of Civil Procedure is to come into force.

3. We have declared that nothing in the proposed Act shall operate to revive any right to sue which was barred under Act IX of 1871.

4. We have struck out as unnecessary the definition of 'minor.'

5. We have extended to appeals and applications, the provisions of section 13 as to excluding the day on which the right to sue accrued.

6. We have also excluded, in the case of appeals, the time necessary for obtaining a copy of the judgment.

7. In computing the period prescribed for any suit, we think that the time during which the plaintiff has been prosecuting any proceeding (whether it be a suit, an appeal or an appli-

cation for execution) against the same defendant in a Court unable to entertain it should be excluded.

8. We have made a similar alteration in section 17, so as to exclude the time occupied by a judgment-debtor in setting aside an execution-sale.

9. In the Schedule we have made the following substantial amendments :—

10. We have provided (No. 11) for suits by persons against whom orders are passed under sections 280, 281, 282, 335 of the Code of Civil Procedure, to establish their right to, or to the present possession of, property comprised in the order.

11. In the case of suits for the restitution of conjugal rights, we think that the refusal mentioned in the third column should be by a husband or wife of full age and sound mind. It is clear, for instance, that the refusal of a minor wife should not make time run against the husband.

12. We have made the No. (104) relating to suits by managers of the joint estates of undivided families apply as well to Muhammadans as to Hindús. In Lower Bengal, the joint family system prevails among both classes of religionists.

13. We have altered Nos. 125, 123 and 124 as follows :—

115. To obtain a declaration that an adoption is invalid	Six years	When the alleged adoption becomes known to the plaintiff.
116. To obtain a declaration that an adoption is valid	Ditto ...	When the rights of the adopted son as such are interfered with.
123. By a person excluded from joint family property to enforce a right to share therein	Twelve years	When the exclusion becomes known to the plaintiff.
124. By a Hindú for arrears of maintenance ...	Ditto ...	When the arrears are payable.
125. By a Hindú for a declaration of his right to maintenance	Ditto ...	When the right is denied.

14. We have struck out No. 135 as being comprised in No. 139, and No. 168 as being now useless.

15. We have provided for application for a re-hearing on an appeal heard *ex parte*.

16. We have cut down from 90 to 30 days the time allowed a pauper to apply for leave to appeal.

17. We have provided a general clause for applications for which no period is expressly provided.

18. We have made a few changes in wording and arrangement, and we recommend that the Bill thus amended be passed. But first we think that it should be republished.

ARTHUR HOBHOUSE.
E. C. BAYLEY.
F. R. COCKERELL.
JOTÍNDRA MOHAN TAGORE.

No. II.

THE INDIAN LIMITATION BILL, 1877.

CONTENTS.

PREAMBLE.

SECTIONS.

PART I.
PRELIMINARY.
1. Short title.
Commencement.
Extent of Act.
2. Repeal of Act IX of 1871.
3. Interpretation-clause.

PART II.
LIMITATION OF SUITS, APPEALS AND APPLICATIONS.
4. Dismissal of suits, &c., instituted, &c., after period of limitation.
5. Proviso where Court is closed when period expires.
Proviso as to appeals and applications for review.
6. Different periods of limitation prescribed by local laws.
Appeals from decrees of High Courts on original side.
7. Legal disability.
Double and successive disabilities.
Disability of representative.
8. Disability of one joint-creditor.
9. Continuous running of time.
10. Suits against express trustees and their representatives.
11. Suits on foreign contracts.
12. Foreign limitation-law.

PART III.
COMPUTATION OF PERIOD OF LIMITATION.
13. Exclusion of day on which right to sue accrues.
Exclusions in case of appeals and certain applications.
14. Exclusion of time of defendant's absence from British India.
15. Exclusion of time of proceeding *bonâ fide* in Court without jurisdiction.
Like exclusion in case of application.
16. Exclusion of time during which commencement of suit is stayed by injunction or order.
Like exclusion in case of order under Civil Procedure Code, s. 19.
17. Exclusion of time during which judgment-debtor is attempting to set aside execution-sale.
18. Effect of death before right to sue accrues.
19. Effect of fraud.
20. Effect of acknowledgment in writing.
21. Effect of payment of interest as such.
Effect of part-payment of principal.
Effect of receipt of produce of mortgaged land.
22. Effect of substituting or adding new plaintiff or defendant.
Proviso where original plaintiff dies.
Proviso where original defendant dies.
23. Computation where there are successive breaches of contract.
24. Continuing breaches and wrongs.
25. Suit for compensation for act becoming unlawful.
26. Computation of time mentioned in instruments.

PART IV.
ACQUISITION OF OWNERSHIP BY POSSESSION.
27. Acquisition of right to easements.
28. Exclusion in favor of reversioner of servient tenement.
29. Extinguishment of right to property.
30. Possession by successive trespassers.

SCHEDULE.
I. SUITS. II. APPEALS. III. APPLICATIONS.

A Bill for the Limitation of Suits, and for other Purposes.

WHEREAS it is expedient to amend the law relating to the limitation of suits, appeals and certain applications to Courts; And whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows :— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called 'The Indian Limitation Act, 1877 :' Short title.

It extends to the whole of British India; but nothing contained in sections two and three or in Parts II and III applies— Extent of Act.

(*a*) to suits under the Indian Divorce Act, or

(*b*) to suits under Madras Regulation VI of 1831;

And it shall come into force on the first day of October 1877. Commencement.

2. On and from that day Act No. IX of 1871 (*An Act for the Limitation of Suits and for other purposes*) shall be repealed. Repeal of Act IX of 1871.

But all references to such Act shall be read as if made to this Act; and nothing herein or in that Act contained shall be deemed to affect any title acquired, or to revive any right to sue barred, under that Act or under any enactment thereby repealed.

Notwithstanding anything herein contained, any suit mentioned in No. 143, No. 144 or No. 145 of the schedule hereto annexed, may be brought within five years next after the said first day of October 1877, unless where the period prescribed for such suit by the said Act No. IX of 1871, shall have expired before the completion of the said five years.

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

'plaintiff' includes also any person from or through whom a plaintiff derives his right to sue:

'easement' includes also a right, not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another, or anything growing in, or attached to, or subsisting upon, the land of another:

'bill of exchange' includes also a hundí:

'trustee' does not include a benámídár, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title:

'suit' does not include an appeal or an application:

'registered' means duly registered under the law for the registration of documents in force at the time and place of executing the document referred to in the context:

'foreign country' means any country other than British India;

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

PART II.

LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

4. Subject to the provisions contained in sections five to twenty-six (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence. Dismissal of suits, &c., instituted, &c., after period of limitation.

Explanation.—A suit is instituted in ordinary cases when the plaint, stamped in accordance with the law for the time being in force, is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed;

and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Illustrations.

(*a*).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The appellate court must dismiss the suit.

(*b*).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

Proviso where Court is closed when period expires.

5. If the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens:

Proviso as to appeals and applications for review.

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Different periods of limitation prescribed by local laws.

6. When, by any special or local law now or hereafter in force in British India, a period of limitation is specially prescribed for any suit, appeal or application, nothing herein contained shall affect or alter the period so prescribed.

Appeals from decrees of High Courts on original side.

And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

Legal disability.

7. If a person entitled to sue be, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the schedule hereto annexed.

Double and successive disabilities.

When he is, at the time from which the period of limitation is to be reckoned, affected by two disabilities, or when before his disability has ceased he is affected by another disability, he may institute the suit within the same period after both disabilities have ceased as would otherwise have been allowed from the time so prescribed.

When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time so prescribed.

Disability of representative.

When such representative is at the date of the death affected by any disability, the rules contained in the former part of this section shall apply.

Nothing in this section shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which the suit must be brought.

Illustrations.

(*a*). The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accruer. He may institute his suit at any time within three years from the date of his attaining majority.

(*b*). A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accruer. A has, under the ordinary law, only one year remaining within which to sue. But under this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority, within which he may bring his suit.

(*c*). A right to sue accrues to Z during his minority. After the accruer, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity ceases.

(*d*). A right to sue accrues to X during his minority. X dies before attaining majority and is succeeded by Y his minor son. Time runs against Y from the date of his attaining majority.

(*e*). A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accrual A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(*f*). A right to sue as landlord to recover possession from a tenant accrues to A who is an idiot. A dies three years after the accruer, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time, except where the representative is himself under disability when the representation devolves upon him.

Disability of one joint creditor.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

Illustrations.

(*a*) A incurs a debt to a firm of which B, C and D are partners. B is insane and C is a minor. D can give a discharge of the debt without the concurrence of B and C Time runs against B, C and D.

(*b*) A incurs a debt to a firm of which E, F and G are partners. E and F are insane, and G is a minor. Time will not run against any of them until they are all free from disability.

Continuous running of time.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against express trustees and their representatives.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his representatives, for the purpose of following in his or their hands such property, shall be barred by any length of time.

Explanation.—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

Suits on foreign contracts.

11. Suits instituted in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

Foreign limitation law.

12. No foreign rule of limitations shall be a defence to a suit instituted in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were domiciled in such country during the period prescribed by such rule.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

Exclusion of day on which right to sue accrues.

13. In computing the period of limitation prescribed for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

Exclusion in case of appeals and certain applications.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper, and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.

Where a decree is appealed against or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

Exclusion of time of defendant's absence from British India.

14. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded, unless service of a summons to appear and answer in the suit can, during such absence, be made under the Code of Civil Procedure, section 89.

Exclusion of time of proceeding *bond fide* in Court without jurisdiction.

15. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another proceeding, whether in a Court of first instance or in a Court of appeal, against the defendant or some person whom he represents, shall be excluded, where the proceeding is founded upon the same cause of action, and is prosecuted in good faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

Like exclusion in case of order under Civil Procedure Code, s. 20.

In computing the period of limitation prescribed for a suit proceedings in which have been stayed by order under the Code of Civil Procedure, section 20, the interval between the institution of the suit and the date of so staying proceedings, and the time requisite for going from the Court in which proceedings are stayed to the Court in which the suit is re-instituted, shall be excluded.

Like exclusion in case of application.

In computing the period of limitation prescribed for any application, the time during which the applicant has been making another application for the same relief, shall be excluded, where the last-mentioned application is made in good faith to a Court which from defect of jurisdiction, or other cause of a like nature, is unable to grant it.

Explanation 1.—In excluding the time during which a former suit or application was pending or being made, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted.

Explanation 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction, shall be deemed to be prosecuting a suit within the meaning of this section.

Exclusion of time during which commencement of suit is stayed by injunction or order.

16. In computing the period of limitation prescribed for any suit, the institution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, shall be excluded.

Exclusion of time during which judgment-debtor is attempting to set aside execution-sale.

17. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a proceeding to set aside the sale, shall be excluded.

Effect of death before right to sue accrues.

18. When a person who would, if he were living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased capable of suing.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

Nothing in the former part of this section applies to suits for the possession of immoveable property or of an hereditary office.

Effect of fraud.

19. When any person having a right to sue has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

or where any document necessary to establish such right has been fraudulently concealed,

the time limited for commencing a suit,

(*a*) against the person guilty of the fraud or accessory thereto, or,

(*b*) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

Effect of acknowledgment in writing.

20. If before the expiration of the period prescribed for a suit in respect of any property or right a substantial acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the acknowledgment was so signed.

When the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed. But oral evidence of its contents shall not be received unless it has been destroyed wrongfully by the person on whom the acknowledgment would be binding.

EXPLANATION 1.—For the purposes of this section an acknowledgment may be sufficient, though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery or performance has not yet come, or is accompanied by a refusal to pay, deliver or perform, or is coupled with a claim to a set-off, or is addressed to a person other than the person entitled to the property or right:

EXPLANATION 2.—In this section "signed" means signed either personally or by an agent generally or specially authorised in this behalf.

EXPLANATION 3.—Nothing in this section renders one of several partners or executors chargeable by reason only of a written acknowledgment signed by another of them.

Illustrations.

Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor A. Z affixes his seal, but does not sign the letter:

Z pays part of the debt, making no written record of the fact of the payment, and promises orally to pay the rest:

Z publishes an advertisement, requesting his creditors to bring in their claims for examination:

In none of these cases is the debt taken out of the operation of this Act.

Effect of payment of interest as such.

21. When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent generally or specially authorized in this behalf,

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent generally or specially authorized in this behalf,

Effect of part-payment of principal.

a new period of limitation, according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that, in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in the hand-writing of the person making the same, on the instrument, or in his own books, or in the books of the creditor.

Effect of receipt of produce of mortgaged land.

Where mortgaged land is in the possession of the mortgagee, the receipt of the produce of such land shall be deemed to be a payment for the purpose of this section.

Effect of substituting or adding new plaintiff or defendant.

22. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

Proviso where original plaintiff dies.

Provided that, when a plaintiff dies, and the suit is continued by his representatives in interest, it shall, as regards them, be deemed to have been instituted when it was instituted by the deceased plaintiff:

Proviso where original defendant dies.

Provided also, that, when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been instituted when it was instituted against the deceased defendant.

Computation where there are successive breaches of contract.

23. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run, upon every fresh breach.

Nothing in the former part of this section applies to suits for the breach of contracts for the payment of money by instalments, where, on default made in payment of one instalment, the whole becomes due.

Illustration.

(*a*).—A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

Continuing breaches and wrongs.

24. In the case of a continuing breach of contract and in the case of a continuing wrong independent of contract, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach or the wrong, as the case may be, continues.

Illustrations.

(*a*).—A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

(*b*).—A diverts B's watercourse. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

Suit for compensation for act becoming unlawful.

25. In the case of a suit for compensation for an act lawful in itself which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues.

Illustration.

A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation runs from the time of the subsidence.

Computation of time mentioned in instruments.

26. All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Illustrations.

(*a*).—A Hindú makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(*b*).—A Hindú makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

Acquisition of right to easements.

27. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, and as of right, without interruption, and for twenty years,

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

EXPLANATION.—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Illustrations.

(*a*).—A suit is brought in 1881 for obstructing a right of way. The defendant admits the obstruction but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January 1860 to 1st January 1880. The plaintiff is entitled to judgment.

(*b*).—In a like suit also brought in 1881 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1858 to 1878. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(*c*).—In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

(*d*).—A diverts B's watercourse and claiming title thereto as an easement, peaceably and openly enjoys the same for twenty years without interruption. At the end of that period A's right to the watercourse becomes absolute and indefeasible.

Exclusion in favour of reversioner of servient tenement.

28. Provided that, when any land or water upon, over, or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term, shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Extinguishment of right to property.

29. At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

Possession by successive trespassers.

30. Where a series of trespasses adverse to one another and to the rightful owner of any immoveable property or hereditary office take and keep possession thereof for several periods each less than the period so limited, but collectively exceeding such period, the person who is in possession of such property or office when the title of the rightful owner would have been extinguished had the trespassers not been adverse to one another, shall have a right to such possession.

Nothing in this section shall operate to bar any right to possession which any earlier trespasser may have against any later trespasser who has illegally dispossessed him.

SCHEDULE.

(*See section* 4).

FIRST DIVISION: SUITS.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part I.—Thirty days.	
1.—To contest an award of the Board of Revenue under Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*).	Thirty days ...	When notice of the award is delivered to the plaintiff.
	Part II.—Ninety days.	
2.—For doing, or for omitting to do, an act in pursuance of any enactment in force for the time being in British India.	Ninety days ...	When the act or omission took place.
	Part III.—Six months.	
3.—Under the Specific Relief Act, 1877, section 9, to recover possession of immoveable property.	Six months ...	When the dispossession occurs.
4.—Under Act No. IX of 1860 (*to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers*), section one.	Ditto ...	When the wages, hire or price of work claimed accrued due.
5.—Under the Code of Civil Procedure, chapter XXXIX (*Of summary procedure on negotiable instruments*).	Ditto ...	When the instrument sued upon becomes due and payable.
	Part IV.—One year.	
6.—Upon a Statute, Act, Regulation or Bye-law, for a penalty or forfeiture.	One year ...	When the penalty or forfeiture is incurred.
7.—For the wages of a household servant, artisan or labourer not provided for by this schedule, No. 4.	Ditto ...	When the wages sued for accrue due.
8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging house.	Ditto ...	When the food or drink is delivered.
9.—For the price of lodging	Ditto ...	When the price becomes payable.
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto ...	When the purchaser takes actual possession, under the sale sought to be impeached, of the whole of the property sold.
11.—By a person against whom an order is passed under section 280, 281, 282 or 335 of the Code of Civil Procedure, to establish his right to, or to the present possession of, the property comprised in the order.	Ditto ...	The date of the order.
12.—To set aside any of the following sales:—	Ditto ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
(*a*) sale in execution of a decree of a Civil Court;		

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part IV.—One year—continued.	
(*b*) sale in pursuance of a decree or order of a Collector or other officer of revenue; (*c*) sale for arrears of Government revenue, or for any demand recoverable as such arrears; (*d*) sale of a patní táluq sold for current arrears of rent. *Explanation.*—In this clause 'patní' includes any intermediate tenure saleable for current arrears of rent.		
13.—To alter or set aside a decision or order of a Civil court in any proceeding other than a suit.	One year ...	The date of the final decision or order in the case by a Court competent to determine it finally.
14.—To set aside any act of an officer of Government in his official capacity, not herein otherwise expressly provided for.	Ditto ...	The date of the act.
15.—Against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Ditto ...	When the attachment, lease or transfer is made.
16.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	Ditto ...	When the payment is made.
17.—Against Government for compensation for land acquired for public purposes.	Ditto ...	The date of determining the amount of the compensation.
18.—Like suit for compensation when the acquisition is not completed.	Ditto ...	The date of the refusal to complete.
19.—For false imprisonment	Ditto ...	When the imprisonment ends.
20.—By executors, administrators or representatives under Act No. XII of 1855 (*to enable the executors, administrators or representatives to sue and be sued for certain wrongs*).	Ditto ...	The date of the death of the person wronged.
21.—By executors, administrators or representatives under Act No. XIII of 1855 (*to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong*).	Ditto ...	The date of the death of the person killed.
22.—For any other injury to the person ...	Ditto ...	When the injury is committed.
23.—For a malicious prosecution ...	Ditto ...	When the plaintiff is acquitted, or the prosecution is otherwise terminated.
24.—For libel	Ditto ...	When the libel is published.
25.—For slander	Ditto ...	When the words are spoken.
26.—For loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part IV.—One year—continued.	
27.—For inducing a person to break a contract with the plaintiff.	One year ...	The date of the breach.
28.—For an illegal, irregular or excessive distress.	Ditto ...	The date of the distress.
29.—For wrongful seizure of moveable property under legal process.	Ditto ...	The date of the seizure.
	Part V.—Two years.	
30.—Against a carrier for losing or injuring goods.	Two years ...	When the loss or injury occurs.
31.—Against a carrier for delay in delivering goods.	Ditto ...	When the goods ought to be delivered.
32.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Ditto ...	When the perversion first becomes known to the person injured thereby.
33.—Under Act No. XII of 1855 (*to enable executors, administrators or representatives to sue and be sued for certain wrongs*) against an executor, administrator or other representative.	Ditto ...	When the wrong complained of is done.
34.—For the recovery of a wife ...	Ditto ...	When possession is demanded and refused.
35.—For the restitution of conjugal rights ...	Ditto ...	When restitution is demanded and is refused by the husband or wife, being of full age and sound mind.
36.—For compensation for any malfeasance, misfeasance or nonfeasance independent of contract and not herein specially provided for.	Ditto ...	When the malfeasance, misfeasance or nonfeasance takes place.
	Part VI.—Three years.	
37.—For obstructing a way or a watercourse.	Three years ...	The date of the obstruction.
38.—For diverting a watercourse ...	Ditto ...	The date of the diversion.
39.—For trespass upon immoveable property.	Ditto ...	When the trespass takes place.
40.—For infringing copyright or any other exclusive privilege.	Ditto ...	When the infringement takes place.
41.—To restrain waste	Ditto ...	When the waste begins.
42.—For compensation for injury caused by an injunction wrongfully obtained.	Ditto ...	When the injunction ceases.
43.—Under the Indian Succession Act, section 320 or 321, to compel a refund by a legatee or a person to whom an executor or administrator has distributed assets.	Ditto ...	The death of the testator or intestate, or (where the legacy or assests has or have been paid or distributed) the expiration of two years next after such payment or distribution, whichever event first occurs.
44.—By a ward who has attained majority, to set aside a sale by his guardian.	Ditto ...	The date of the sale.
45.—To contest an award under any of the following Regulations of the Bengal Code:— VII of 1822, IX of 1825, and IX of 1833.	Ditto ...	The date of the final award or order in the case.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part VI.—Three years—contd.	
46.—By a party bound by such award to recover any property comprised therein.	Three years ...	The date of the final award or order in the case.
47.—By any person bound by an order respecting the possession of property made under the Code of Criminal Procedure, chapter XL, or the Bombay Mámlatdárs' Act, or by any one claiming under such person, to recover the property comprised in such order.	Ditto ...	The date of the final order in the case.
48.—For specific moveable property lost, or acquired by theft, or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same.	Ditto ...	When the person having the right to the possession of the property first learns in whose possession it is.
49.—For other specific moveable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same.	Ditto ...	When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful.
50.—For the hire of animals, vehicles, boats or household furniture.	Ditto ...	When the hire becomes payable.
51.—For the balance of money advanced in payment of goods to be delivered.	Ditto ...	When the goods ought to be delivered.
52.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods.
53.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto ...	When the period of credit expires.
54.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ...	When the period of the proposed bill elapses.
55.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Ditto ...	The date of the sale.
56.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Ditto ...	When the work is done.
57.—For money payable for money lent ...	Ditto ...	When the loan is made.
58.—Like suit when the lender has given a cheque for the money.	Ditto ...	When the cheque is paid.
59.—For money lent under an agreement that it shall be payable on demand.	Ditto ...	When the demand is made.
60.—For money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
61.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ...	When the money is received.
62.—For money payable for interest upon money due from the defendant to the plaintiff.	Ditto ...	When the interest becomes due.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part VI—Three years—contd.	
63.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Three years ...	When the accounts are stated in writing unless where the debt is made payable at a future time and then when that time arrives.
64.—For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto ...	At the time specified or upon the contingency happening.
65.—On a single bond where a day is specified for payment.	Ditto ...	The day so specified.
66.—On a single bond where no such day is specified.	Ditto ...	The date of executing the bond.
67.—On a bond subject to a condition ...	Ditto ...	When the condition is broken.
68.—On a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
69.—On a bill of exchange payable at sight, or after sight, but not at a fixed time.	Ditto ...	When the bill is presented.
70.—On a bill of exchange accepted payable at a particular place.	Ditto ...	When the bill is presented at that place.
71.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
72.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Ditto ...	When the demand is made.
73.—On a promissory note or bond payable by instalments.	Ditto ...	The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment.
74.—On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one instalment, the whole shall be due.	Ditto ...	The time of the first default, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver.
75.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto ...	The time of the delivery to the payee.
76.—On a dishonoured foreign bill where protest has been made and notice given.	Ditto ...	When the notice is given.
77.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Ditto ...	The date of the refusal to accept.
78.—By the acceptor of an accommodation-bill against the drawer.	Ditto ...	When the acceptor pays the amount of the bill.
79.—Suit on a bill of exchange or promissory note not herein expressly provided for.	Ditto ...	When the bill or note becomes payable.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part VI.—Three years—contd.	
80.—By a surety against the principal debtor	Three years ...	When the surety pays the creditor.
81.—By a surety against a co-surety ...	Ditto ...	When the plaintiff pays anything in excess of his own share.
82.—Upon any other contract to indemnify	Ditto ...	When the plaintiff is actually damnified.
83.—By an attorney or vakíl for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto ...	The termination of the suit or business, or (where the attorney or vakíl properly discontinues the suit or business), the date of such discontinuance.
84.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto ...	The latest date at which any item is entered in the account by or on behalf of the defendant.
85.—On a policy of insurance when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	Ditto ...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.
86.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Ditto ...	When the insurers elect to avoid the policy.
87.—Against a factor for an account.	Ditto ...	When the account is demanded, or where no such demand is made, when the agency terminates.
88.—By a principal against his agent for moveable property received by the latter and not accounted for.	Ditto ...	When the account is demanded and refused, or the agency terminates, whichever first happens.
89.—Other suits by principals against agents for neglect or misconduct.	Ditto ...	When the neglect or misconduct becomes known to the plaintiff.
90.—To cancel or set aside an instrument not otherwise provided for.	Ditto ...	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.
91.—To declare the forgery of an instrument issued, or registered, or attempted to be enforced against the plaintiff.	Ditto ...	The date of the issue, registration, or attempt, whichever last happens.
92.—For property which the plaintiff has conveyed while insane.	Ditto ...	When the plaintiff is restored to sanity, and has knowledge of the conveyance.
93.—To set aside a decree obtained by fraud, or for other relief on the ground of fraud.	Ditto ...	When the fraud becomes known to the party wronged.
94.—For relief on the ground of mistake in fact.	Ditto ...	When the mistake becomes known to the plaintiff.
95.—For money paid upon an existing consideration which afterwards fails.	Ditto ...	The date of the failure.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part VI.—Three years—contd.	
96.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Three years ...	The date of the trustee's death, or, if the loss has not then resulted, the date of the loss.
97.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers.	Ditto ...	The date of the plaintiff's advance in excess of his own share.
98.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Ditto ...	When the right to contribution accrues.
99.—For a seaman's wages	Ditto ...	The end of the voyage during which the wages are earned.
100.—By a Muhammadan for exigible dower (*mu'ajjal*).	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
101.—By a Muhammadan for deferred dower (*mu'wajjal*).	Ditto ...	When the marriage is dissolved by death or divorce.
102.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Ditto ...	The date of the receipt.
103.—For an account and a share of the profits of a dissolved partnership.	Ditto ...	The date of the dissolution.
104.—By the manager of a joint estate of an undivided family for contribution in respect of a payment made by him on account of the estate.	Ditto ...	The date of the payment.
105.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto ...	When the trees are cut down.
106.—For the profits of immoveable property belonging to the plaintiff wrongfully received by the defendant.	Ditto ...	When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards set aside on appeal, the date of the decree of the appellate Court.
107.—For arrears of rent	Ditto ...	When the arrears become due.
108.—By a vendor of immoveable property to enforce his lien for unpaid purchase-money.	Ditto ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
109.—For a call by a company registered under any Statute or Act.	Ditto ...	When the call is payable.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part VI.—Three years.—continued.	
110.—For specific performance of a contract.	Three years.	The date fixed for the performance, or if no such date is fixed, when the plaintiff has notice that performance is refused.
111.—For the rescission of a contract ...	Ditto ...	When the facts entitling the plaintiff to have the contract rescinded first become known to him.
112.—For the breach of any contract, express or implied, not in writing registered, and not herein specially provided for.	Ditto ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.
	Part VII.—Six years.	
113.—Upon a foreign judgment as defined in the Code of Civil Procedure.	Six years ...	The date of the judgment.
114.—On a promise or contract in writing registered.	Ditto ...	When the period of limitation would begin to run against a suit brought on a similar promise or contract not registered.
115.—To obtain a declaration that an adoption is invalid.	Ditto ...	When the alleged adoption becomes known to the plaintiff.
116.—To obtain a declaration that an adoption is valid.	Ditto ...	When the rights of the adopted son as such are interfered with.
117.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	When the right to sue accrues.
	Part VIII.—Twelve years.	
118.—By an auction-purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the estate being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.
119.—To avoid incumbrances or under-tenures in a *patní táluq* or other saleable tenure sold for arrears of rent, the táluq or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Ditto ...	When the sale becomes final and conclusive.
120.—Upon a judgment obtained in British India, or a recognizance.	Ditto ...	The date of the judgment or recognizance.
121.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate.	Ditto ...	When the legacy or share becomes payable or deliverable.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part VIII.—Twelve years—continued.	
122.—For possession of an hereditary office ...	Twelve years ...	When the defendant, or some person through whom he claims, took possession of the office adversely to the plaintiff. *Explanation.*—An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.
123.—Suit during the life of a Hindú female by a Hindú entitled to the possession of land on her death to have an alienation made by the female declared to be void except for her life.	Ditto ...	The date of the alienation.
124.—By a Hindú governed by the law of the Mitákshará to set aside his father's alienation of ancestral property.	Ditto ...	When the alienee takes possession of the property.
125.—By a person excluded from joint-family property to enforce a right to share therein.	Ditto ...	When the exclusion becomes known to the plaintiff.
126.—By a Hindú for arrears of maintenance	Ditto ...	When the arrears are payable.
127.—By a Hindú for a declaration of his right to maintenance.	Ditto ...	When the right is denied.
128.—For the resumption or assessment of rent-free land.	Ditto ...	When the right to resume or assess the land first accrued: Provided that no such suit shall be maintained where the land forms part of a permanently-settled estate, and has been held rent-free from the time of the Permanent Settlement.
129.—To establish a periodically recurring right.	Ditto ...	When the plaintiff is first refused the enjoyment of the right.
130.—To enforce payment of money charged upon immoveable property. *Explanation.*—The allowance and fees respectively called *málikána* and *haqqs* shall, for the purpose of this clause, be deemed to be money charged upon immoveable property.	Ditto ...	When the money sued for becomes due.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of suit.	Period of limitation.	Time from which period begins to run.
	Part VIII.—Twelve years—continued.	
131.—To recover moveable property conveyed or bequeathed in trust, deposited or pawned and afterwards bought from the trustee, depositary or pawnee in good faith and for value as property to which the vendor was absolutely entitled.	Twelve years ...	The date of the purchase.
132.—To recover possession of immoveable property conveyed or bequeathed in trust or mortgaged and afterwards purchased from the trustee or mortgagee, in good faith and for value, as property to which the vendor was absolutely entitled.	Ditto ...	The date of the purchase.
133.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Ditto ...	When the mortgagee is first entitled to possession.
134.—By a purchaser at a private sale for possession of immoveable property sold, when the vendor was out of possession at the date of the sale.	Ditto ...	When the vendor is first entitled to possession.
135.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Ditto ...	When the execution-debtor is first entitled to possession.
136.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Ditto ...	The date of the sale.
137.—By a landlord to recover possession from a tenant.	Ditto ...	When the tenancy is determined.
138.—By a remainderman, a reversioner (other than a landlord), or a devisee, for possession of immoveable property.	Ditto ...	When his estate falls into possession.
139.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú female.	Ditto ...	When the female dies.
140.—For possession of immoveable property, when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Ditto ...	The date of the dispossession or discontinuance.

SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

Description of application.	Period of limitation.	Time from which period begins to run.
	Part VIII.—Twelve years—continued.	
141.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Twelve years ...	When the forfeiture was incurred or the condition broken.
142.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for.	Ditto ...	When the possession of the defendant, or of some person through whom he claims, became adverse to the plaintiff.
	Part IX.—Thirty years.	
143.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years ...	The date of the deposit or pawn.
144.—Against a mortgagee to recover possession of immoveable property mortgaged.	Ditto ...	The date of the mortgage: Provided that all claims to redeem, arising under instruments of mortgage of immoveable property situate in British Burma, which have been executed before the first day of May 1863, shall be governed by the rules of limitation in force in that province immediately before the same day.
145.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Ditto ...	When any part of the principal or interest was last paid on account of the mortgage debt.
146.—Any suit in the name of the Secretary of State for India in Council.	Ditto ...	When the right to sue accrued.

SCHEDULE—*continued.*

SECOND DIVISION: APPEALS.

Description of appeals.	Period of limitation.	Time from which period begins to run.
147.—Under the Code of Civil Procedure to the Court of a District Judge.	Thirty days ...	The date of the decree or order appealed against.
148.—Under the Code of Criminal Procedure to any Court other than the High Court.	Ditto ...	The date of the sentence or order appealed against.
149.—Under the same Code to the High Court except in the case provided for by No. 151.	Sixty days ...	Ditto.
150.—Under the Code of Civil Procedure to the High Court.	Ninety days ...	The date of the decree or order appealed against.
151.—Under the Code of Criminal Procedure from a judgment of acquittal.	Six months ...	The date of the judgment appealed against.

THIRD DIVISION: APPLICATIONS.

Description of application.	Period of limitation.	Time from which period begins to run.
152.—Under the Code of Civil Procedure to set aside an award.	Ten days ...	When the award is submitted to the Court, and notice of the submission has been given to the persons and in manner prescribed by the High Court.
153.—For an order under section 258 of the same Code compelling a decreeholder to certify payment or adjustment.	Ditto ...	When the payment or adjustment is made.
154.—For dismissal of a suit on the ground of the plaintiff's bankruptcy or insolvency.	Ditto ...	When the plaintiff's assignee or receiver neglects or refuses to continue the suit.
155.—For leave to appear and defend a suit under chapter XXXIX of the Code of Civil Procedure.	Ditto ...	When the summons is served.
156.—For an order under section 629 of the same Code restoring to the file a rejected application for review.	Fifteen days ...	When the application for review is rejected.
157.—By a plaintiff for an order to set aside a judgment by default.	Thirty days ...	The date of the judgment.
158.—By a defendant for an order to set aside a judgment *ex parte*.	Ditto ...	The date of executing any process for enforcing the judgment.
159.—Under the Code of Civil Procedure, by a person dispossessed of immoveable property, and disputing the right of the decreeholder to be put into possession.	Ditto ...	The date of the dispossession.
160.—To set aside a sale in execution of a decree, on the ground of irregularity in publishing or conducting the sale.	Ditto ...	The date of the sale.
161.—Complaining of resistance or obstruction to delivery of possession of immoveable property decreed or sold in execution of a decree, or of dispossession in the delivery of possession to the decreeholder or the purchaser of such property.	Ditto ...	The date of the resistance, obstruction or dispossession.

SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS—continued.

Description of application.	Period of limitation.	Time from which period begins to run.
162.—Under section 363 or 365 of the Code of Civil Procedure by a person claiming to be the legal representative of a deceased plaintiff.	Thirty days ...	The date of the plaintiff's death.
163.—For re-admission of an appeal dismissed for want of prosecution.	Ditto ...	The date of the dismissal.
164.—For a rehearing of an appeal heard *ex parte* in the absence of the respondent.	Ditto ...	The date of the decree.
165.—For leave to appeal as a pauper.	Ditto ...	The date of the decree appealed against.
166—By a purchaser at an execution-sale to set aside the sale on the ground that the person whose interest in the property purported to be sold had no saleable interest therein.	Sixty days ...	The date of the sale.
167.—For a review of judgment.	Ninety days ...	The date of the decree.
168.—For payment of the amount of a decree by instalments.	Six months ...	The date of the decree.
169.—Under the Code of Civil Procedure, that an award be filed in Court.	Ditto ...	The date of the award.
170.—For the execution of a decree or order of any Civil Court not provided for by No. 173.	Three years ...	1. The date of the decree or order, or 2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or 3. (where there has been a review of judgment) the date of the decision passed on the review, or 4. (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court to enforce, or keep in force, the decree or order, or 5. (where the notice next hereinafter mentioned has been issued) the date of issuing a notice under the Code of Civil Procedure, section 248, or 6. (where the application is to enforce payment of an instalment which the decree or order directs to be paid at a specified date) the date so specified. *Explanation I.*—Where the decree or order has been passed severally in favour of more persons than one,

SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS—continued.

Description of application.	Period of limitation.	Time from which period begins to run.
		distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 4 of this Number shall take effect in favour only of such of the said persons or their representatives as it may be made by. But when the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all. Where the decree or order has been passed, severally, against more persons than one, distinguishing portions of the subject-matter as payable or deliverable by each, the application shall take effect against only such of the said persons or their representatives as it may be made against. But where the decree or order has been passed, jointly, against more persons than one, the application, if made against any one or more of them, or against his or their representatives, shall take effect against them all. *Explanation II.*—"proper Court" means the Court whose duty it is (whether under section 226 or 227 of the Code of Civil Procedure or otherwise) to execute the decree or order.
171.—Applications for which no period of limitation is provided elsewhere in this schedule.	Three years ...	When the right to apply accrued.
172.—For the execution of any such decree or order of which a certified copy has been registered under the Indian Registration Act.	Six years ...	The date of the decree or order, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review.

SCHEDULE—*concluded.*

THIRD DIVISION: APPLICATIONS—concluded.

Description of application.	Period of limitation.	Time from which period begins to run.
173.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction, or an order of Her Majesty in Council.	Twelve years ...	When a present right to enforce the judgment, decree or order accrued to some person capable of releasing the right: Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing, signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 7, 1877. { 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 21st March 1877 :—

No. 8 OF 1877.

A Bill to facilitate the admission of Military Lunatics into Asylums.

WHEREAS it is expedient to facilitate the admission of European Military Lunatics into Asylums, and to amend the law now in force with regard to the admission thereto of Native Military Lunatics; It is hereby enacted as follows :— Preamble.

1. This Act may be called the "Military Lunatics Act, 1877:" Short title.

It extends to the whole of British India and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty; Local extent.

And it shall come into force on the passing thereof. Commencement.

2. Act XXI of 1872 (*to facilitate the admission of Native Military Lunatics into Asylums*) shall be repealed. Repeal of Act XXI of 1872.

3. Whenever any European officer, Warrant-officer, Non-commissioned officer, soldier or other person 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 has been declared a lunatic, in accordance with the provisions of the military regulations of the Presidency to which he belongs, and has been ordered to be forwarded to any one of the Presidency-towns, and it appears to one of the Surgeons General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs, that it is inexpedient that he should be removed to England, or that he should be detained in military custody until he can be conveniently sent to England, such Surgeon General may, if he think fit, make an order under his hand for the reception of the said lunatic into the Lunatic Asylum at Bhowanipur, Madras, or Bombay, or such other Lunatic Asylum as may be duly authorized for the purpose by the Governor-General in Council; Procedure in respect of European officer or soldier declared lunatic.

and the officer in charge of such asylum shall receive the lunatic in the asylum, and detain him therein until he is discharged therefrom, in accordance with the local military regulations in force for the time being, or until the Surgeon General applies for his transfer to the military authorities in view to his removal to England.

4. Whenever any Native officer, Non-commissioned officer or soldier appears to be insane, the officer commanding the regiment or detachment to which he belongs shall report the case to the general officer commanding the division or district or force in which such regiment or detachment is serving. Report in case of Native officer or soldier appearing to be insane.

5. Such general officer shall thereupon cause the said Native to be examined by a committee composed of at least two medical officers, or (if this be impracticable) by a regimental committee comprising the officer in command of the wing or squadron to which the Native Examination of Native by committee.

belongs and the medical officer in charge of the corps or detachment of which such wing or squadron forms part.

Procedure on Native being found by committee to be insane.

6. If the said committee or regimental committee (as the case may be) are satisfied that the Native is insane, the officer commanding the division or district or force may, if he thinks fit, make an order under his hand for the reception of the said Native into a Lunatic Asylum, and shall then send him thither under military escort; and the officer in charge of such asylum shall receive the Native into the asylum and detain him therein until he is discharged therefrom in accordance with the local military regulations in force for the time being.

Procedure for discharge of European or Native military lunatic.

7. Whenever it appears to the officer in charge of a Lunatic Asylum that the discharge of a military lunatic, whether European or Native, is necessary either on account of his recovery, or for any other purpose, such person shall be brought before the visitors of the asylum, and on the visitors recording their opinion that the discharge should be made, the general officer commanding the division, district or force, or other officer authorized to order the admission of military lunatics into asylums, shall forthwith direct him to be discharged, and such discharge shall take place in accordance with the local military regulations in force for the time being.

Payment of expenses of lunatic.

8. The Paymaster of the military circle within which any such asylum is situate shall pay to the officer in charge of such asylum the expense of the lodging, maintenance, clothing and medicine of every lunatic, whether European or Native, received and detained under this Act.

Legalization of past receptions in asylum.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

STATEMENT OF OBJECTS AND REASONS.

It appears that at present there is no law whatever under which British soldiers afflicted with mental disease can be admitted into, or (when cured) discharged from, Lunatic Asylums in this country; and the primary object of this Bill is to legalize such admission and discharge.

At the same time the opportunity has been taken to amend the law as to the discharge of Native military lunatics. The Bill proposes to repeal Act XXI of 1872 (*to facilitate the admission of Native Military Lunatics into Asylums*) and re-enact it with the necessary addition.

H. W. NORMAN.

CALCUTTA,
The 2nd March 1877.

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 28th March 1877, and was referred to a Select Committee:—

No. 10 OF 1877.

A Bill to provide for the execution of emergent works in connection with embankments in British Burma.

Preamble.

WHEREAS it is expedient to provide for the execution of emergent works in connection with embankments in British Burma; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Burma Embankment Act, 1877:"

Local extent.

It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma; but nothing herein contained applies to embankments belonging to private persons;

Commencement.

And it shall come into force on the passing thereof.

Interpretation-clause.

2. In this Act—

"Embankment." "Embankment" means any embankment constructed for the purpose of excluding, regulating or retaining water, and includes all earthen walls, dams, canals, drains, piers, groins, sluices, buildings, water-gauges, bench-marks and other works subsidiary to any such embankment; and

"Embankment-officer." "Embankment-officer," used with reference to an embankment, means the officer appointed by the Chief Commissioner to carry out this Act in respect of such embankment.

Circumstances under which this Act may be put in operation.

3. Whenever it appears probable to the embankment-officer that unless some work is quickly executed in connection with an embankment, loss of life or extensive damage to property will ensue, and that the labourers or materials required for the execution of such work cannot be obtained in the ordinary course in time to enable him to execute such work with the expedition necessary in order to avert such loss or damage, he may, by order under his hand, direct that the provisions of this Act shall be put into operation for the execution of such work; and thereupon

Power to impress labour.

(*a*) every able-bodied male person belonging to any class of labourers, and residing in the neighbourhood of such embankment, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist such officer in the execution of such work by labouring thereon, after the manner of his class or trade, as such officer or any person authorized by him in this behalf may direct; and

Power to take materials.

(*b*) such officer or any person authorized by him in this behalf may enter upon any immoveable property in the said neighbourhood and take possession of, appropriate and remove, any trees or bamboos, whether standing or not, and any timber, mats, rope or other materials found on such property, and use the same for the purposes of such work.

Payment for labour impressed and materials taken.

4. All persons labouring in compliance with a requisition made under section three, or whose materials may be taken under that section, shall as soon as may be reasonably practicable be paid by the embankment-officer for their labour or for such materials (as the case may be) at such rates not being less than fifteen per cent. above the market-rates for similar labour or materials for the time being prevailing in the said neighbourhood as the Chief Commissioner may from time to time by written order direct.

Compensation for damage done in taking materials.

5. When from the removal of any trees, bamboos or other materials under section three, any damage over and above the price payable for such materials under section four, results directly to any person, the embankment-officer shall pay to such person such sum as may be agreed upon as compensation for such damage, or in case of dispute as to the amount so to be paid, as the Deputy Commissioner of the district may award.

Penalties for trespass on embankments, &c.

6. Where an embankment-officer has been appointed for any embankment, any person who, without the permission of such officer—

(*a*) grazes any cattle or allows any cattle under his charge to trespass on such embankment, or

(*b*) cuts or roots out any trees, shrubs or grass growing on such embankment, or

(*c*) obstructs any drain or sluice connected with such embankment,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Certain persons to be deemed public servants.

7. Every embankment-officer and every officer authorized by an embankment-officer to act under section three, shall be deemed to be a "public servant" within the meaning of the Indian Penal Code.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to legalize and regulate the levying of labour when sudden danger threatens embankment-works in floods, and when such labour cannot be hired. The necessity for provisions of this kind became apparent in the Irrawaddy floods of 1875, when some of the embankments were breached and others overflowed. In some cases the people whose property was threatened with injury came forward cheerfully and prevented further disaster; but in others, where the danger was equally real and of greater extent, but not so immediately apparent, great difficulty was experienced in getting the people whose lives and property were jeopardized to assist in any way in saving the works.

The great losses of life and property that have occurred during the last few years all over the world prove that the works esteemed the most perfect are liable to such sudden and unforeseen failures, and almost universal experience proves that the only remedy possible to apply in such cases consists in the labour of the persons most interested being concentrated on the weaker spots under proper direction.

This Bill will therefore legalize a practice which already obtains imperfectly in Burma, and which is general where embankment-works exist.

In drawing up the details of the Bill, attention has been given to Act No. I of 1858 relating to similar works in Madras.

CALCUTTA;
The 12th March 1877.

A. CLARKE.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 14, 1877. { 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 28th March 1877, and was referred to a Select Committee:—

No. 10 OF 1877.

A Bill to provide for the execution of emergent works in connection with embankments in British Burma.

WHEREAS it is expedient to provide for the execution of emergent works in connection with embankments in British Burma; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Burma Embankment Act, 1877:" Short title.

It extends to all the territories for the time being under the administration of the Chief Commissioner of British Burma; but nothing herein contained applies to embankments belonging to private persons; Local extent.

And it shall come into force on the passing thereof. Commencement.

2. In this Act— Interpretation-clause.

"Embankment" means any embankment constructed for the purpose of excluding, regulating or retaining water, and includes all earthen walls, dams, canals, drains, piers, groins, sluices, buildings, water-gauges, bench-marks and other works subsidiary to any such embankment; and "Embankment."

"Embankment-officer," used with reference to an embankment, means the officer appointed by the Chief Commissioner to carry out this Act in respect of such embankment. "Embankment-officer."

3. Whenever it appears probable to the embankment-officer that unless some work is quickly executed in connection with an embankment, loss of life or extensive damage to property will ensue, and that the labourers or materials required for the execution of such work cannot be obtained in the ordinary course in time to enable him to execute such work with the expedition necessary in order to avert such loss or damage, he may, by order under his hand, direct that the provisions of this Act shall be put into operation for the execution of such work; and thereupon Circumstances under which this Act may be put in operation.

(*a*) every able-bodied male person belonging to any class of labourers, and residing in the neighbourhood of such embankment, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist such officer in the execution of such work by labouring thereon, after the manner of his class or trade, as such officer or any person authorized by him in this behalf may direct; and Power to impress labour.

(*b*) such officer or any person authorized by him in this behalf may enter upon any immoveable property in the said neighbourhood and take possession of, appropriate and remove, any trees or bamboos, whether standing or not, and any Power to take materials.

timber, mats, rope or other materials found on such property, and use the same for the purposes of such work.

Payment for labour impressed and materials taken.

4. All persons labouring in compliance with a requisition made under section three, or whose materials may be taken under that section, shall as soon as may be reasonably practicable be paid by the embankment-officer for their labour or for such materials (as the case may be) at such rates not being less than fifteen per cent. above the market-rates for similar labour or materials for the time being prevailing in the said neighbourhood as the Chief Commissioner may from time to time by written order direct.

Compensation for damage done in taking materials.

5. When from the removal of any trees, bamboos or other materials under section three, any damage over and above the price payable for such materials under section four, results directly to any person, the embankment-officer shall pay to such person such sum as may be agreed upon as compensation for such damage, or in case of dispute as to the amount so to be paid, as the Deputy Commissioner of the district may award.

Penalties for trespass on embankments, &c.

6. Where an embankment-officer has been appointed for any embankment, any person who, without the permission of such officer—

(*a*) grazes any cattle or allows any cattle under his charge to trespass on such embankment, or

(*b*) cuts or roots out any trees, shrubs or grass growing on such embankment, or

(*c*) obstructs any drain or sluice connected with such embankment,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Certain persons to be deemed public servants.

7. Every embankment-officer and every officer authorized by an embankment-officer to act under section three, shall be deemed to be a "public servant" within the meaning of the Indian Penal Code.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to legalize and regulate the levying of labour when sudden danger threatens embankment-works in floods, and when such labour cannot be hired. The necessity for provisions of this kind became apparent in the Irrawaddy floods of 1875, when some of the embankments were breached and others overflowed. In some cases the people whose property was threatened with injury came forward cheerfully and prevented further disaster; but in others, where the danger was equally real and of greater extent, but not so immediately apparent, great difficulty was experienced in getting the people whose lives and property were jeopardized to assist in any way in saving the works.

The great losses of life and property that have occurred during the last few years all over the world prove that the works esteemed the most perfect are liable to such sudden and unforeseen failures, and almost universal experience proves that the only remedy possible to apply in such cases consists in the labour of the persons most interested being concentrated on the weaker spots under proper direction.

This Bill will therefore legalize a practice which already obtains imperfectly in Burma, and which is general where embankment-works exist.

In drawing up the details of the Bill, attention has been given to Act No. I of 1858 relating to similar works in Madras.

CALCUTTA;
The 12th March 1877.

A. CLARKE.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 16, 1877. 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 14th June 1877:—

No. 11 OF 1877.

A Bill to amend the Bombay Revenue Jurisdiction Act, 1876.

Preamble.

WHEREAS it is expedient to exempt from the operation of the fourth section of the Bombay Revenue Jurisdiction Act, 1876, certain suits instituted in the Districts mentioned in the Schedule hereto annexed; It is hereby enacted as follows:—

Addition to section 5, Act X of 1876.

1. To section five of the said Act the following clause shall be added (namely)—

"and nothing in section four shall be held to prevent the Civil Courts in the Districts mentioned in the second Schedule hereto annexed from exercising such jurisdiction as, according to the terms of Acts No. XI of 1852, No. XXIII of 1871, and Bombay Acts No. II of 1863, No. VII of 1863 and No. III of 1874, or of any other law in force on the twenty-eighth day of March 1876, they could have exercised over claims against Government—

"(*a*) relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III of 1874, or any other law for the time being in force, or of any other village-officer or servant:

"(*b*) to hold land wholly or partially free from payment of land-revenue:

"(*c*) to receive payments charged on, or payable out of, the land-revenue."

Schedule added to Act X of 1876.

2. The following Schedule shall be added to the said Bombay Revenue Jurisdiction Act, 1876, (namely)—

"THE SECOND SCHEDULE.

The District of Ahmedabad.

The District of Kaira, exclusive of the Panch Mahâls.

The District of Broach.

The District of Surat, exclusive of the lapsed State of Mándvi, as described in the schedule annexed to Act X of 1848.

The District of Tanna.

The District of Colába, exclusive of the lapsed State of Colába mentioned in Act VIII of 1853.

The District of Ratnágiri.

The District of Kanara."

STATEMENT OF OBJECTS AND REASONS.

1. The Bombay Revenue Jurisdiction Act (X of 1876), section 4, sub-section (*a*), article 1, and sub-section (*f*), articles 1 and 2, withdraw from the jurisdiction of the Civil Courts in every part of the Bombay Presidency (1) claims against Government relating to property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act III of 1874, or any other law for the time being in force, or of any other village-officer or servant, and (2) claims against Government to hold land wholly or partially free from payment of land-revenue, or to receive payments charged on, or payable out of, the land-revenue.

2. The object of this Bill is to restore to the Civil Courts, so far as the Old Provinces are concerned, whatever jurisdiction has been taken away by the articles above referred to.

3. The reasons for the Bill are shortly as follows: In the Old Provinces the Courts had, to a certain extent, cognizance of the claims in question; obscure and disputed claims to exemption from land-revenue or from enhanced assessments are commoner there than in other parts of India; and for these and other causes the change effected by the articles above mentioned is distasteful to the population.

SIMLA, *The 19th April* 1877. } A. J. ARBUTHNOT.

A. PHILLIPS,
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 June 1877:—

No. 12 OF 1877.

A Bill to amend the Chutia Nágpur Encumbered Estates Act, 1876.

FOR the purpose of amending the Chutia Nágpur Encumbered Estates Act No. VI of 1876; It is hereby enacted as follows:—

Preamble.

1. For the word "six" shall be substituted the word "twelve" in the second clause of the twelfth section of the said Act.

Amendment of Act VI of 1876, section 12, clause 2.

STATEMENT OF OBJECTS AND REASONS.

The Government of Bengal being of opinion that the period of six months provided by section 12 of the Chutia Nágpur Encumbered Estates Act, 1876, is too short for deciding whether an estate should be retained under management or relinquished under that section, the period of six months is, by the amending Bill, increased to twelve months, which period it is believed will be sufficient for the purpose.

SIMLA; *The 25th May* 1877. } A. J. ARBUTHNOT.

A. PHILLIPS,
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 June 1877, and was referred to a Select Committee:—

No. 13 of 1877.

THE TRANSFER OF PROPERTY BILL, 1877.

CONTENTS.

Preamble.

CHAPTER I.
PRELIMINARY.

SECTION.
1. Short title.
Extent.
Commencement.
2. Repeal of Acts.
Saving of certain rights, liabilities, etc.
3. Interpretation-clause.

CHAPTER II.
OF ASSURANCES OF IMMOVEABLE PROPERTY.
4. Persons competent to make assurances.
5. Conveyance of easements.
6. Power to convey subject to obligation for benefit of public or neighbour.
7. Power to convey with reservation of certain rights.
8. Form of assurance.
9. Application of rules of construction.
10. Operation of assurance.
Things comprised in grant.
Covenants concerning its subject.

CHAPTER III.
OF SALES OF IMMOVEABLE PROPERTY.
11. Rights and liabilities of seller and buyer.
12. Contract for sale not of itself to create interest in property.
13. Purchase of immoveable property which buyer causes to be transferred to another.

CHAPTER IV.
OF MORTGAGES AND CHARGES.
14. Mortgage, mortgagor and mortgagee defined.
15. Respective rights of mortgagor and mortgagee.
16. Rights and duties of mortgagee in possession.
17. Receipts of mortgagee in possession.
18. Injunctions to restrain waste.
19. Preliminary decree in foreclosure-suit.
Procedure in case of payment of amount due and subsequent costs.
Final decree for foreclosure.
20. Power to order sale at instance of mortgagee.
21. Power to decree sale in foreclosure-suit.
22. Mortgagee not to bid at sale.
23. Recovery of balance due on mortgage.
24. Power of sale.
25. Preliminary decree in redemption-suit.
26. Loss occasioned by mortgagee's default.
27. Procedure where nothing due or amount paid.
Procedure when amount due is not paid.
28. Payment of interest.
Proviso.
29. Costs of mortgagee.
30. Costs of mortgagee subsequent to decree.
31. Effect of deposit of title-deeds.
32. Sale of property subject to mortgage.
33. Application of proceeds.
34. Mortgage to secure balance of account.
35. Right to pay off mortgagee in order to prevent sale.
36. Effect of such payment by person having whole interest in property charged.
37. Effect of payment by person only partially interested.

SECTION.
38. Tacking abolished.
39. Redemption of one or two properties separately mortgaged.
40. Rights and powers of transferee of mortgage debt or mortgaged property.
41. Charge made by assurance or will.

CHAPTER V.
OF LEASES OF IMMOVEABLE PROPERTY.
42. Form of written lease.
43. Exclusion of day on which term commences.
Duration of term.
Option to determine lease.
44. Rights and liabilities of lessor and lessee.
45. Saving of right to distrain.
46. Duration of certain leases in absence of written agreement or local usage.
47. Effect of holding over.

CHAPTER VI.
OF EXCHANGES.
48. Exchange defined.
Rights and obligations of parties.
Exchange of money.

CHAPTER VII.
OF SETTLEMENTS.
49. "Settlement" defined.
50. Consideration not necessary to make settlement binding.
51. Voidability of settlement made in fraud of creditors.
52. Condition restraining alienation of interest.
53. Condition making interest determinable on insolvency or alienation.
54. Vesting of gift in general terms.
55. Vesting in interest of gift to unborn person not entitled to possession immediately on birth.
56. Application of sections of Act X of 1865 to gifts contained in settlements.
57. Right to income of property coming into possession under settlement.

CHAPTER VIII.
OF GIFTS FOR RELIGIOUS AND CHARITABLE PURPOSES.
58. Gift to charitable uses by person having certain relatives.
59. Assurance of property in perpetuity for use of any community or institution.

CHAPTER IX.
OF APPORTIONMENT.
60. Apportionment of rents and other periodical payments.

CHAPTER X.
OF CERTAIN RIGHTS AND LIABILITIES OF LIMITED OWNERS.
61. Rights and obligations of persons having limited interest in property.
62. Obligation of limited owner in possession of property mortgaged.
63. Right to increase of value to property in which there are successive interests.
64. Discovery of death of tenant for life.
65. Saving of lessees.

CHAPTER XI.
OF THE DISCRETION OF THE COURTS TO DEAL WITH SETTLED LAND.
66. Powers exercisable by Court on application of person interested in possession in settled immoveable property.
67. Service of notice and advertisement of application.
68. Appearance to oppose or support application.
69. Costs of application.
70. Leases under section 66.
71. Payment into Court of money receivable under section 66.
72. Power to direct payment of income to person entitled.
Application of residue.

CHAPTER XII.
OF POWERS.
73. Power to appoint, defined.
Donor, donee, objects, appointee, defined.
General power.
Special power.
74. Exercise of power vested in several donees.
75. Modes in which powers may be executed.
Jurisdiction to aid defective executions abolished.
76. Validity of forms hereby prescribed.
77. Concurrence where power is to be exercised with consent of several persons.
78. Recital of power not necessary.
79. Power exercisable by several instruments executed at different times.
80. Disposition intended to take effect after interests appointed under void power.
81. Effect of general power.
82. Effect of general power without disposition of property in case of non-appointment.
83. Interest conferrible by donee of special power.
84. Effect of appointment to objects some authorized and others unauthorized.
85. Appointment in excess of power when voidable at election of appointee.
86. Invalidity of appointment creating authorized and unauthorized interests not separable.
87. Appointment with unauthorized condition.
88. Contract not to exercise power of leasing.
89. Invalidity of agreement not to exercise power.
90. Frauds on powers.
91. Right to property in default of appointment.
92. Appointment of whole property to some only of several objects in favour of which power is given.

CHAPTER XIII.
OF PROPERTY HELD BY SEVERAL PERSONS.
93. Right to property by survivorship created only by express words.

SECTION.
94. Partition of immoveable property.
Power to direct sale and to distribute proceeds.
95. Power to allow person interested to bid for property sold for purpose of partition.
96. Payment into Court.
97. Saving of laws relating to partition of revenue-paying estates.
98. Waste by one joint-owner.

CHAPTER XIV.

OF ASSIGNMENT OF THINGS IN ACTION.
99. Sale, &c., of things in action.
100. Notice to be in writing signed.
101. Liability of assignee of thing in action.
102. Saving of negotiable instruments.

The First Schedule—Enactments repealed.
The Second Schedule—Forms.

A Bill to define and amend the law relating to the Transfer of Property.

WHEREAS it is expedient to define and amend the law relating to the transfer of property; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

This Act may be called "The Transfer of Property Act, 1877:" Short title.

It extends to the whole of British India; Extent.

And it shall come into force on the day of 1878. Commencement.

2. On and from that day the enactments specified in the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof. Repeal of Acts.

Nothing herein contained shall be deemed to affect— Saving of certain rights, liabilities, &c.

(*a*) any right or liability acquired or incurred before this Act comes into force or any remedy in respect of any such right or liability:

(*b*) any right of pre-emption acquired after this Act comes into force:

(*c*) any option of a mortgagee to make further advances required by the mortgagor:

(*d*) any contract of bottomry or respondentia:

(*e*) any sale, mortgage or other transfer of a British ship:

(*f*) any sale in execution of a decree or order, or for arrears of rent or revenue:

(*g*) the construction of any instrument executed before this Act comes into force.

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

"assurance" means any instrument not testamentary, creating, transferring or otherwise disposing of any interest in immoveable property: "assurance."

the person so creating, transferring or otherwise disposing, is called a grantor: the person in whose favour such creation, transfer or disposition is made, is called a grantee; and the operation effected by an assurance is called a grant: "grantor." "grantee." "grant."

"registered" means registered in British India under the law for the time being regulating the registration of documents. "registered."

"affixed to the soil" means— "affixed to the soil."

(*a*) imbedded in the soil, as in the case of walls;

(*b*) permanently resting upon it, as in the case of buildings; or

(*c*) permanently attached to what so rests, as by means of nails, bolts or screws.

and all words occurring in this Act and defined in the Indian Contract Act, 1872, shall have the meaning attributed to them respectively by that Act. Words defined in Act IX of 1872.

CHAPTER II.

OF ASSURANCES OF IMMOVEABLE PROPERTY.

4. Every person competent to contract may make an assurance of any immoveable property of which he is the owner, or which he is entitled to transfer, or on which he is entitled to create a charge. Persons competent to make assurances.

5. Immoveable property may be granted with the right to an easement affecting any other immoveable property belonging to the grantor, or subject to an easement for the benefit of any other property. Conveyance of easements.

Easements may be made the subject of separate grants.

Where any easement is actually enjoyed with any property the subject of any grant, the grant shall, unless a contrary intention appears by the assurance, be deemed to pass such easement.

6. Immoveable property may be granted subject to an obligation for the benefit of the public or of any neighbouring owner. Power to convey subject to obligation for benefit of public or neighbour.

Such obligation shall bind the grantee and all persons claiming the granted property under him, and may be the subject of a separate grant.

Whenever such an obligation is created for the benefit of the public, it may be enforced by the grantor and his legal representatives or by the Government as a civil right.

Illustrations.

(*a*). A grants certain land to Z subject to the condition that Z shall not, without the consent of A, build any dwelling-house within a hundred yards of certain adjoining land of A. A and all persons claiming such land under him may enforce this obligation on Z, and all persons claiming the granted land under him.

(*b*). A grants certain land to Z, subject to the condition that Z shall for ever maintain thereon a fountain for the use of travellers.

Z, being the owner of certain land, covenants with A that he will for ever maintain thereon a fountain for the use of travellers.

In each case either A or the Government may enforce the obligation against Z, and all persons claiming the land under him.

7. Immoveable property may be granted with the reservation of any right of using the same or of severing and removing any part thereof. Such rights may be the subject of separate grant. Power to convey with reservation of certain rights.

Illustrations.

(*a*). A may grant to B his lands of Rámnagar, reserving to himself the right to dig for and remove the coal and other minerals thereon, and to do in person, or by his servants, whatever is necessary for obtaining and removing the coal and other minerals.

(*b*). A may grant to B, by a separate assurance, the right to plant fruit-trees on A's lands of Rámnagar, and to gather the fruit.

8. An assurance may be made in the form in the second schedule hereto annexed, or in any other form which expresses an intention thereby, and without any further act, to grant any interest in immoveable property. Form of assurance.

9. The rules of construction which apply to testamentary instruments shall also be applicable to assurances, so far as the different nature of assurances will permit. Application of rules of construction.

10. Unless a contrary intention appears by the assurance, a grant shall be deemed to pass to the grantee all the interest which the grantor is capable of passing in the subject of the grant, and to comprise— Operation of assurance.

(*a*) trees and all other products of the soil;

(*b*) things affixed to the soil, and, in the case of machinery so affixed, the moveable parts thereof;

(*c*) in the case of a house, the locks, keys, bars, doors and windows,

and a covenant by the grantee concerning the subject of the assurance binds all persons claiming such subject under the grantee, and may be enforced by all persons claiming under the grantor, and a like covenant by the grantor binds all persons claiming the subject under the grantor, and may be enforced by all persons claiming under the grantee. Covenants concerning its subject.

CHAPTER III.

OF SALES OF IMMOVEABLE PROPERTY.

11. Unless a contrary intention appears from the assurance or, when no assurance has been made, from the contract, the seller and the buyer of immoveable property respectively possess the rights and are subject to the liabilities mentioned in the nine rules next following, or such of them as are applicable to the property sold: Rights and liabilities of seller and buyer.

(*a*). If the buyer, or any person claiming under him, suffers loss by reason of any invalidity of the seller's title not known to the buyer when the contract was entered into, the seller, or, where the seller is not the person for whose benefit the consideration was received, then such other person, is responsible for the loss so suffered.

(*b*). The seller has a charge upon the property for the amount of the purchase-money, or any part thereof, remaining unpaid; but as soon as the assurance (if any) is registered, such charge shall cease.

EXPLANATION.—Money for which a bill of exchange has been taken remains unpaid, within the meaning of this clause, until the bill is paid.

(*c*). After the contract has been made, the seller is entitled to the rents and profits of the property until the time fixed for the completion of the sale, and if he has received any such rents and profits which accrued after that time, he must on completion account for them to the buyer. The buyer must, on completion, pay to the seller interest on the purchase-money from the time fixed for the completion of the sale. But this is not to preclude either party from obtaining compensation where loss has been occasioned by the default or delay of the other party.

(*d*). The buyer is entitled to a charge on the property for the amount of any purchase-money properly paid by him in anticipation of the completion of the sale.

(*e*). In the absence of fraud or misrepresentation the seller is not answerable for any latent defect in the property sold.

(*f*). After the contract has been made, the buyer is liable to bear any loss arising from the destruction or decrease in value of the property, and not caused by the vendor's fault, and is entitled to the benefit of any improvement in, or increase in value of, the property.

(*g*). The seller is bound to execute a proper assurance of the property when the buyer tenders it to him for execution at a proper time and place.

(*h*). When the buyer has been let into beneficial possession of the property pending discussions as to the seller's title thereto, and the contract is not completed owing to defects in such title, the buyer is not liable to pay for his use of the property.

(*i*). When the completion of the contract is delayed by the buyer, and, after the day fixed for completing it, the seller expends money on the property, the seller is entitled to recover the amount so expended, provided that such expenditure was required for the preservation of the property, or by any law for the time being in force.

12. Save as provided by section 11, clause (*b*), a contract for the sale of, or relating to, immoveable property, whether registered or not, shall not have the effect of creating any interest in, or charge on, such property; but the only right of any person under the contract shall be to apply for specific performance, or for compensation, or for both, according to the rules laid down in the Indian Contract Act, 1872, and the Specific Relief Act, 1877. Contract for sale not of itself to create interest in property.

13. A person paying the consideration for any immoveable property, but having the transfer of it made to another person, is not, by reason of such payment, entitled to such property or to any interest therein. Purchase of immoveable property which buyer causes to be transferred to another.

CHAPTER IV.

OF MORTGAGES AND CHARGES.

14. When any interest in specific property is actually or contingently transferred by one person to another for the purpose of securing the payment of money, the transfer is called a mortgage, the transferor is called a mortgagor, the transferee a mortgagee, the money of which payment is secured is called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

Mortgage, mortgagor and mortgagee defined.

For the purposes of this chapter, any person claiming as heir, legatee, assignee, lessee or otherwise the interest of the transferor in the property subject to the mortgage, or any part of such interest, is a mortgagor; and any person claiming as heir, legatee, assignee or otherwise the interest of the transferee under the mortgage, or any part thereof, is a mortgagee.

EXPLANATION.—A judgment-creditor who attaches any mortgaged property or mortgage-money claims under the transferor or transferee (as the case may be) within the meaning of the second paragraph of this section.

Illustrations.

(*a*). A binding himself personally for the repayment of a loan, pledges certain land to B as collateral security for such repayment, but does not actually deliver possession.

(*b*). A not so binding himself, pledges certain land as in illustration (*a*), and covenants that in default of payment of the loan on a certain date the land pledged shall pass to B.

(*c*). A borrows money from B, and gives up certain land to B that he may retain possession thereof until he has from the rents and profits of the land repaid himself the sum so lent.

(*d*). A binding himself as in illustration (*a*), pledges certain land to B as a collateral security for the repayment, and permits B to receive the rents and profits of the land until he has repaid himself the loan, but does not actually deliver possession.

(*e*). A not so binding himself covenants that on default of payment of the loan on a certain date the land pledged shall pass to B. A meanwhile puts B into possession of the land, and allows him to receive the rents and profits in discharge of the loan.

(*f*). A charges certain land in favour of B with Rs. 1,000 and interest at the rate of twelve per cent. per annum.

(*g*). A charges a certain fund in favour of B with the amount which shall be due to him on the balance of A's account not exceeding Rs. 1,000, together with interest thereon at the rate of twelve per cent. per annum.

(*h*). A borrows Rs. 10,000 from B and conveys certain land to B in trust that the same shall stand charged with the payment to B of the Rs. 10,000 and interest and subject thereto in trust for C and others, and the deed confers express power on B in default of payment to sell the land.

Each of these transactions is a mortgage. A is the mortgagor, B the mortgagee.

(*i*). A, in consideration of a loan of money paid to him by B, makes over his land to B for a term of twenty years, but does not bind himself to pay to B principal or interest. This is not a mortgage.

Respective rights of mortgagor and mortgagee.

15. On the completion of a mortgage the mortgagor has the following rights:—

(*a*) he may, at any time after the mortgage-money has become payable, or has been paid, and before his right to redeem the mortgaged property is foreclosed or the property is sold, institute a suit (hereinafter called a suit for redemption) to have the mortgaged property re-transferred to him;

(*b*) he may, at any time after the mortgage-money has become payable and before such suit is barred, tender to the mortgagee or deposit in the principal Civil Court within the local limits of whose ordinary original civil jurisdiction the mortgaged property or any part thereof is situate, to the account of the mortgagee, the whole amount for the time being due on the mortgage.

And the mortgagee has the following rights:—

(*c*) he may take possession of the mortgaged property at or after the time, if any, specified in the mortgage-deed for payment of the mortgage-money, or, if no time is so specified, at any time after the mortgage-money has become payable to him;

(*d*) he may, at any time after he is entitled to take possession of the mortgaged property, and before it is redeemed, institute a suit against the mortgagor (1) for a foreclosure of his right to redeem the property, with or without possession thereof, or (2) for a sale of the property, or (3) for either of such remedies;

(*e*) where the mortgagor deposits money in court under clause (*b*) of this section, the Court shall forthwith cause written notice of the deposit to be served on the mortgagee, and the mortgagee may, on depositing the mortgage-deed (if any) in the same Court and on filing a written statement (verified in manner prescribed by law for the verification of plaints) of the amount due to him under the mortgage, apply for and receive in payment of such amount the money so deposited;

(*f*) if at the date of the mortgage the mortgaged property is insured against fire, the mortgagee, in case of damage to the property by fire, may (in the absence of a contract to the contrary) require the insurance-money to be laid out in reinstating the property.

16. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property, he has the following duties and rights:—

Rights and duties of mortgagee in possession.

(*a*) he shall manage the property as a person of ordinary prudence would manage it if it were his own;

(*b*) he shall collect all rents and other profits arising out of the property;

(*c*) he shall, in the absence of an express contract to the contrary, pay out of the income of the property the Government revenue and all other charges of a public nature due in respect thereof and keep down the interest due on all mortgages of the property prior to his own, and on all mortgages of the property subsequent to his own, of which he has notice;

(*d*) he may spend such money as is necessary for the due management and preservation of the property and add it to the principal money secured, at the same rate of interest;

(*e*) where the property is by its nature insurable, he may insure and keep insured from loss or damage by fire the whole or any part of such property, and add the premiums paid for any such insurance to the principal money secured, at the same rate of interest;

(*f*) he shall keep accurate accounts of all sums received and spent by him as mortgagee;

(*g*) he shall, at any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported.

17. When the mortgagee is in possession of the mortgaged property, unless there is an express contract in writing between the mortgagee and the mortgagor that his net receipts therefrom shall, so long as the mortgagee is in possession thereof, be taken in lieu of interest on the principal sum secured by the mortgage, such receipts shall be debited against him in reduction of the amount (if any) from time to time due to him on account of interest on the principal sum so secured, or, so far as such receipts exceed any interest due, in reduction of such principal sum.

Receipts of mortgagee in possession.

18. Where the mortgagor remains in possession of the mortgaged property or any part thereof, and commits or threatens to commit waste thereon, the mortgagee may obtain an injunction to stay the waste: provided that the security is insufficient or will be rendered insufficient by the waste complained of. Where the mortgagee takes possession of the mortgaged property or any part thereof and commits or threatens to commit waste thereon, the mortgagor may obtain an injunction to stay the waste.

Injunctions to restrain waste.

EXPLANATION.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of houses, exceeds by one-half, the mortgage-money.

Foreclosure and Sale.

19. In a suit for foreclosure or sale, if the plaintiff succeed, the Court shall pass a preliminary decree, ordering—

Preliminary decree in foreclosure-suit.

(*a*) that an account be taken of what will be due to the mortgagee for principal and interest on the mortgage and for his costs of the suit, on the day next hereinafter referred to,

(*b*) that, upon the defendant paying to the plaintiff or into Court the amount so due, on a day within six months from the date of the decree, to be fixed by the Court, the mortgagor shall, if necessary, be put in possession of the mortgaged property by the mortgagee free from all incumbrances created by the mortgagee or any person claiming under him, or, where the mortgagee claims by derived title, by those under whom he claims; but

(*c*) that, if such payment is not made on or before such day, the mortgagor shall be absolutely foreclosed of all right to redeem such property.

If payment is so made of such amount and of such subsequent costs as are mentioned in section 30, the mortgagor shall (if necessary) be put into possession of the mortgaged property.

Procedure in case of payment of amount due and subsequent costs.

If such payment is not so made, the plaintiff shall be at liberty to apply to the Court for a decree for the foreclosure of the said mortgage, and the Court may then pass a decree ordering the defendant to be foreclosed of all right to redeem the mortgaged property, and may, if necessary, deliver possession of the property to the mortgagee; and thereupon the mortgagor's right to redeem and the debt secured by the mortgage shall both be extinguished.

Final decree for foreclosure.

20. In any suit by the mortgagee under this chapter, the Court may, at the instance of the plaintiff, decree that in default of the defendant paying to the plaintiff or into court the amount for the time being due on the mortgage and the plaintiff's costs of the suit, the mortgaged property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into court and applied in payment of what is due for the time being to the plaintiff on the mortgage, and that the balance, if any, be paid to the defendant or other persons entitled to receive the same.

Power to order sale at instance of mortgagee.

21. When the mortgagee sues only for a foreclosure, the Court may, at the instance of the mortgagor, decree that in default of such payment, the mortgaged property or a sufficient part thereof be sold, if (*a*) the Court considers that the mortgagee will not be damnified thereby, and (*b*) the mortgagor furnishes such security, if any, as the Court thinks fit for the payment of the balance due for the time being by him on the mortgage.

Power to decree sale in foreclosure-suit.

22. At any sale under section 20 or section 21, the mortgagee shall not bid for or acquire any interest in the property sold without the leave of the Court, or without submitting to such conditions as the Court may impose.

Mortgagee not to bid at sale.

23. If the nett proceeds of any such sale are insufficient to pay the amount due for the time being on the mortgage, the balance may be recovered in the same suit in the same manner as under a decree for money, or by any other legal process open to the mortgagee.

Recovery of balance due on mortgage.

24. Power may be expressly conferred by the mortgage-deed on the mortgagee to sell or concur in selling the mortgaged property, or any part thereof, on default made in payment of any principal money or interest, payment of which is secured by the mortgage-deed. But in exercising such a power, the mortgagee shall be subject to the following rules (namely)—

Power of sale.

(*a*) he shall use all reasonable diligence to obtain a fair price for the property:

(*b*) no such sale shall be made (1) until after six months' notice in writing of the intended sale has been given to the mortgagor, or (2) after the amount for the time being due on the mortgage has been paid or tendered to the mortgagee by or on behalf of the mortgagor, or (3) pending a suit for redemption of the property, or (4) so as to give the mortgagee any interest in the property.

When a sale has been effected in professed exercise of any such power, the title of the purchaser shall not be liable to be impeached on the ground that no such default had been made or that the rules so prescribed had not been complied with.

Receipts for purchase-money given by the mortgagee exercising such power shall discharge the purchasers therefrom.

The proceeds of every such sale shall be applied as follows:—

first, in defraying the expenses incident to the sale, or properly incurred in any attempted sale under the power;

secondly, in or towards satisfaction of the amount for the time being due on the mortgage; and

thirdly, the surplus (if any) of the said proceeds shall be paid to the mortgagor.

Redemption.

25. In a suit for redemption, if the plaintiff succeed, the Court shall pass a preliminary decree for taking the accounts, as provided by section 19, between the mortgagor and mortgagee, and directing that upon the mortgagor paying within six months from the date of the decree to the mortgagee or into Court what (if anything) is found due to the mortgagee for principal, interest and costs, the mortgagee shall re-convey the mortgaged property to the mortgagor, free from the mortgage, and from all incumbrances created by the mortgagee or any persons claiming under him, and that if such amount is not so paid, the plaintiff's suit shall thenceforth stand dismissed, and that he shall be foreclosed of all right to redeem the mortgaged property.

Preliminary decree in redemption-suit.

26. If the mortgagee fail to perform any of the duties imposed upon him by section 16, he may, when the said accounts are taken, be debited with the loss, if any, occasioned by such failure.

Loss occasioned by mortgagee's default.

27. If on taking the accounts nothing is found due to the mortgagee, or if the amount found due together with such subsequent costs as are mentioned in section 30 is paid according to the decree, the mortgagor shall, if necessary, be put into possession of the property. But if such amount and costs are not so paid, the mortgagor shall be absolutely foreclosed of all right to redeem the property, and the Court shall, if necessary, deliver possession thereof to the mortgagee.

Procedure where nothing due or amount paid.

Procedure when amount due is not paid.

Interest.

28. When the mortgagor and mortgagee have contracted as to the payment of interest on the principal money for the time being due to the mortgagee under the mortgage, interest shall be payable in accordance with such contract: Provided that where the mortgagor has tendered or deposited in Court the whole amount due to the mortgagee, such interest shall cease from the date of the tender or from the time when the mortgagee could take such amount out of Court, as the case may be.

Payment of interest.

Proviso.

Costs.

29. The mortgagee is ordinarily entitled to add to his debt his costs properly incurred of any suit under this chapter. But such costs, or any part thereof, may be disallowed if the mortgagor has tendered to the mortgagee or has deposited in Court the whole amount due to him under the mortgage, and if the mortgagee has unreasonably refused to accept such tender or to take such money out of Court in discharge of his claim, or if he has prevented a mortgagor willing and able to make such tender or deposit from making it by refusing or neglecting to give him proper information as to the state of the accounts required to be kept under section 16.

Costs of mortgagee.

30. In finally adjusting the amount to be paid to a mortgagee in case of a redemption or a sale by the Court under this chapter, the Court shall, unless the conduct of the mortgagee has been such as to disentitle him to costs, add to the principal debt such costs of suit as have been properly incurred by him since the decree for foreclosure, redemption or sale up to the time of actual payment.

Costs of mortgagee subsequent to decree.

Deposit of Title-deeds.

31. The deposit of title-deeds with intent to create a mortgage on the property comprised therein, but without actual transfer of such property, shall be deemed to be only evidence of a contract for a mortgage of the property, and shall entitle the depositee merely to institute a suit for specific performance of such contract.

Effect of deposit of title-deeds.

Sale of property subject to prior mortgage.

32. If any property the sale of which is directed under this chapter is subject to a prior mortgage, the Court may, with the consent of the prior mortgagee, order that the property be sold free from the same, giving to such prior mortgagee the same interest in the proceeds of the sale as he had in the property sold.

Sale of property subject to prior mortgage.

33. Such proceeds shall be brought into Court and applied as follows:

Application of proceeds.

first, in payment of all expenses incident to the sale or properly incurred in any attempted sale;

secondly, if the property has been sold free from any prior mortgage, in payment of whatever is due on account of such mortgage;

thirdly, in payment of all interest due on account of the mortgage in consequence whereof the sale was directed, and of the costs of the suit in which the decree directing the sale was made;

fourthly, in payment of all principal moneys due on account of that mortgage; and

fifthly, the residue (if any) shall be paid to the person proved to be interested in the property sold, or if there be more such persons than one, then to such persons according to their respective interests therein.

34. If a mortgage made to secure the balance of a running account expresses the maximum to be secured thereby, a subsequent mortgage on the same property shall, if made with notice of the prior mortgage, be postponed to the prior mortgage in respect of all advances or debits not exceeding the maximum, though made or allowed with notice of the subsequent mortgage.

Mortgage to secure balance of account.

Illustration.

A gives to his bankers, B & Co., a charge on Sultánpur to secure the balance of his account with them to the extent of Rs. 10,000. A then gives to C a charge on Sultánpur to secure Rs. 10,000; and C gives notice thereof to B & Co. At the date of the second charge, the balance due to B & Co. does not exceed Rs. 5,000. B & Co. subsequently advance to A sums making the balance of the account against him exceed the sum of Rs. 10,000. B & Co. are entitled, to the extent of Rs. 10,000, to priority over C.

35. Any person having an interest in mortgaged immoveable property may, at any time before a sale of such property has taken place under this chapter, tender to the next prior mortgagee the amount due to him on account of his mortgage. Such mortgagee is bound to accept such tender and to give a receipt for the sum due, and on such receipt being registered, his interest in the property in respect of the mortgage shall absolutely cease.

Right to pay off mortgagee in order to prevent sale.

36. In such case, where the person making the tender has, subject to the mortgage, the absolute ownership of the property, the mortgage shall cease to exist and the property shall vest in the person making such tender.

Effect of such payment by person having whole interest in property charged.

37. If the tender be made by a person not having, subject to the mortgage, the absolute ownership of the property, he shall acquire in respect of the property all the rights and powers of the mortgagee to whom he has made such tender.

Effect of payment by person only partially interested.

38. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security. And no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his security for such subsequent advance.

Tacking abolished.

39. If the owner of two or more properties creates separate mortgages on them by separate assurances, each mortgage may be dealt with irrespectively of the other, though the mortgages are created in favour of the same mortgagee.

Redemption of one of two properties separately mortgaged.

Illustration.

A, the owner of farms Z and Y, mortgages Z to B for Rs. 1,000. A afterwards mortgages Y to B for Rs. 1,000, making no stipulation as to any additional charge on Z. A may institute a suit for the redemption of the mortgage on Z alone.

40. If property subject to a mortgage, or the right to receive mortgage-money, be transferred to a third person, the transferee has all the rights and powers of his transferor, under the mortgage, and is subject to the liabilities existing between his transferor and the mortgagor or mortgagee, as the case may be.

Rights and powers of transferee of mortgage-debt or mortgaged property.

Where such a transfer is made for the purpose of securing the payment of money, the original mortgage-debt, if recovered by either the transferor or the transferee, is applicable, *first*, in payment of the costs of such recovery, *secondly*, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor.

41. If by any assurance other than a mortgage-deed, or by any will, or under the provisions of this or any other Act, or by operation of law, certain property of one person is made security for the payment of certain money to another, all the provisions hereinbefore applied to a mortgagor shall apply to the owner of such property, and all the provisions hereinbefore applied to a mortgagee shall apply to the owner of such money.

Charge made by assurance or will.

CHAPTER V.

OF LEASES OF IMMOVEABLE PROPERTY.

42. A lease may be made in the form in the second schedule hereto annexed, or in any other form which expresses an intention of the parties to give and take, for rent or a fine, possession of, or profits derived from, immoveable property, for a time shorter in duration than the lessor's interest therein.

Form of written lease.

43. Where the time limited by a lease is expressed as commencing from a particular day, in computing that time such day shall be excluded.

Exclusion of day on which term commences.

Where the time so limited is a year or a number of years, in the absence of any express agreement to the contrary, the lease shall last during the whole anniversary of the day on which such time commences.

Duration of term.

Where the time so limited is expressed to be determinable before its expiration, and there is no express agreement as to the party having the option of determining it, the lessee shall have such option.

Option to determine lease.

44. Unless a contrary intention appears from the lease, the lessor and the lessee, as against one another, respectively possess the rights and are subject to the liabilities mentioned in the twenty-two rules next following, or such of them as are applicable to the property leased:—

Rights and liabilities of lessor and lessee.

(*a*). During the continuance of the lease, the lessee is entitled to the enjoyment of all lights, waters, water-courses, drains, ways and other easements enjoyed as incident to the property leased at the time when the lease was made.

(*b*). The lessor is bound to put the lessee in possession of the property leased, and to deliver it to him in a condition reasonably fit for the purpose for which both parties contemplate that the lessee is to use it.

(*c*). If the lessee is, by reason of the invalidity of the lessor's title, or by any act or default of the lessor, or of any person claiming under him, or of any person claiming by a superior title to his, disturbed in the peaceable enjoyment of the property leased, the lessee is entitled to compensation from the lessor for any loss thereby caused, and may also obtain from any Court of competent jurisdiction a decree for the rescission of the lease.

(*d*). If the lessee is, by reason of the invalidity of the lessor's title, deprived of any substantial part of the property leased, or of anything essential to his enjoyment thereof, he is entitled to compensation from the lessor for any loss thereby caused, and may also obtain from any Court of competent jurisdiction a decree for the rescission of the lease.

(*e*). In the absence of fraud or misrepresentation, the lessor is not answerable for any latent defect in the thing leased.

(*f*). The lessor is bound to do all things necessary for maintaining the roof, walls, beams, floors, stairs and drains of any house or other building comprised in the lease, and may for that purpose enter such building at all reasonable times.

(*g*). In all other respects the lessee is bound to keep, and at the end of the lease to restore, the property leased in as good condition as it was in at the time when he was put in possession, subject only to reasonable wear and tear.

(*h*). Deteriorations arising from want of painting or plastering, or from breaking of glass, are not to be considered as wear and tear, but shall be made good by the lessee.

(*i*). If by fire, tempest or flood, or violence of an army or of a mob, or other superior force, any part of the property leased be wholly destroyed or rendered substantially unfit for the purposes for which it was let, the obligation of the lessor as to that part shall cease unless he consents to reinstate the part so destroyed or rendered unfit; but in case of refusal or neglect to reinstate the same, the lessee shall be entitled to be discharged from his lease.

If the injury be occasioned by the wrongful act of either party, such party shall not be entitled to avail himself of the benefit of this provision.

(*j*). In case any rent remains unpaid at the end of a month from the time when it was payable and demanded, or in case within a reasonable time after notice default is made by the lessee in the performance of any of his other obligations under the lease, the lessor may institute a suit for a decree for the rescission of the lease and for possession of the property leased, unless the lessee shall, within a time to be specified by the Court, pay such arrears and perform such obligations, and also pay all costs and expenses sustained by the lessor through the lessee's default.

(*k*). In case the lease is rescinded for the default of the lessee, he is bound to pay the rent up to the time of such rescission, and also to make compensation for any other loss resulting from his default.

(*l*). If the lessor neglects to make, within a reasonable time after notice, repairs which he ought to make, the lessee may make the same himself, and deduct the expense of such repairs from the rent, or otherwise recover it from the lessor.

(*m*). If the lessor neglects to make any payment which he is bound to make, and which if not made is recoverable against the property leased, the lessee may make such payment himself, and deduct it from his rent, or otherwise recover it from the lessor.

(*n*). Every lessee who receives notice of any proceeding to recover the property leased to him or any part thereof, is bound to give notice thereof to the lessor with reasonable diligence; and, in default of so doing, he is liable to make compensation to the lessor for any loss or expenses occasioned by such omission.

(*o*). The lessee is bound to give notice to the lessor, within a reasonable time, of any encroachment made upon, or any interference with the lessor's rights concerning, the property leased; and, in default of so doing, he is liable to make compensation to the lessor for any loss or expenses occasioned by such omission.

(*p*). The lessee may use the soil and its products for all purposes of enjoyment as a reasonable owner would use them: but he may not destroy them wastefully, nor remove them after the expiration of the lease.

(*q*). No lessee of immoveable property who erects thereon any building, engine or machinery for agricultural purposes shall remove the same without first giving to the lessor or his agent one month's previous notice in writing of his intention so to do, and thereupon the lessor or his agent may elect to purchase the thing so proposed to be removed, and the lessee's right to remove the same shall thereby cease, and the same shall belong to the lessor, and the value thereof shall in case of dispute be ascertained and determined by two referees, one to be chosen by each party, or by an umpire to be named by such referees, and shall be paid or allowed in account by the lessor.

(*r*). Subject to the provisions of clause (*g*) and clause (*q*), the lessee has a right to remove at any time during his possession of the property leased, or within a reasonable time afterwards, all things not being products of the soil which he has affixed to the soil.

(*s*). When a lease of land determines in consequence of an uncertain event over which the lessee has no control, the lessee is entitled to all the crops growing upon the land for the season current when the lease determines, and to free ingress, egress and regress to reap and carry them.

(*t*). Upon the death of the lessor or of the lessee, his legal representative shall have all the rights and be subject to all liabilities of the lessor or lessee whom he represents.

(*u*). If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee shall possess all the rights and, if the lessee so elects, be subject to all the liabilities of the lessor as to the property or part transferred so long as he is the owner of it; but the lessor shall not by reason only of such transfer cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him: Provided that if the lessee pay rent to the lessor without having reason to believe that such transfer has been made, he shall not be liable to pay such rent over again to the transferee.

Where only a part of the property leased is transferred by the lessor, he may determine what proportion of the rent reserved by the lease is payable in respect of the part so transferred.

(*v*). The lessee has a right to transfer his lease. The transferee may again transfer it. The lessee shall not, by reason of such transfer, cease to be subject to any of the liabilities attaching to the lease, unless the lessor elects to treat the transferee as the person subject to such liabilities. Subject as aforesaid, each successive transferee, so long as he is entitled to the property leased, possesses all the rights, and is subject to all the liabilities, of the lessee.

45. Nothing in this Act shall affect any right to distrain which a lessor may exercise under any local law for the time being in force.

Saving of right to distrain.

46. In the absence of any written agreement and of any local law or usage to the contrary, a lease of property for purposes of cultivation shall be a lease from year to year terminable by six months' notice ending with the end of a year of the tenancy; and a lease of property for any other purpose shall be a lease from month to month, terminable by fifteen days' notice ending with the end of a month of the tenancy.

Duration of certain leases in absence of written agreement or local usage.

Every notice under this section must be in writing signed by or on behalf of the party giving it and served on the party who is intended to be bound by it.

47. If a lessee of property remains in possession thereof after the expiration of the lease, and the lessor accepts rent from him, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year or from month to month, according to the purpose for which the property is leased, as specified in the last preceding section.

Effect of holding over.

Illustrations.

(*a*). A lets a house to B for five years. B sub-lets the house to C at a monthly rent of Rs. 100. The five years expire, but C continues in possession of the house and pays the rent to A. C's lease is renewed from month to month.

(*b*). A lets a farm to B for the life of C. C dies, but B continues in possession with A's assent. B's lease is renewed from year to year.

CHAPTER VI.

OF EXCHANGES.

48. Exchange is a contract by which the parties mutually give, or agree to give, one thing for another, neither thing or both things being money only.

"Exchange" defined.

Each party has the rights and obligations of a seller as to that which he gives and the rights and obligations of a buyer as to that which he takes.

Rights and obligations of parties.

On an exchange of money, each party thereby warrants the genuineness of the money given by him.

Exchange of money.

CHAPTER VII.

OF SETTLEMENTS.

49. "Settlement" means in this chapter any disposition of property—

"Settlement" defined.

(*a*) which is not testamentary, and is not founded on any valuable consideration, or

(*b*) which is made in consideration of marriage, or

(*c*) which is made for the purpose of dividing property of the settlor among his family or those for whom he desires to provide,

but does not include a gift made by a Hindú Muhammadan or Buddhist.

50. In order that a settlement should be binding, it is not necessary that it should be made for a consideration.

Consideration not necessary to make settlement binding.

51. A settlement made for the purpose of depriving present or future creditors or other persons having demands against the settlor, of their demands on him, is voidable at the option of such creditors or other persons, and so far as regards the demands of such creditors or other persons, but not as against a person who, having no knowledge of the purpose for which the settlement was made, has contracted for or acquired an interest therein by marriage or for other valuable consideration, nor as against claimants under such persons. Such settlement is nevertheless binding on the settlor and on all persons claiming under him.

Voidability of settlement made in fraud of creditors.

EXPLANATION.—Where there is no positive evidence of fraud, the intent to deprive creditors and other persons of their demands on the settlor may be inferred from

(*a*) the indebtedness of the settlor at the date of the settlement,

(*b*) want of consideration for the settlement, and

(*c*) any other circumstance indicative of fraud.

52. A condition or limitation in a settlement or will restraining any person from parting with or disposing of his interest, is void.

Condition restraining alienation of interest.

53. A condition or limitation contained in a settlement or will making an interest thereby reserved or given to or in trust for any person to cease on his becoming insolvent, or endeavouring to transfer or dispose of the same, is void.

Condition making interest determinable on insolvency or alienation.

54. If by a settlement property be given to a person then living in general terms, without indicating the time when it is to be paid or delivered, such person has a vested interest therein from the day of the execution of the settlement, and if he dies without having received it, it shall (subject to any legal disposition thereof which he may have made) pass to his legal representatives.

Vesting of gift in general terms.

55. Where by the terms of a settlement a thing is given to a person not in existence, but he is not entitled to possession of it immediately upon his birth, a right to receive it at the proper time shall, unless a contrary intention appears by the settlement, become vested in such person upon his birth, and shall (subject to any legal disposition thereof which he may have made) pass to his legal representative if he dies before that time, and without having received it. And in such cases it is from his birth said to be vested in interest.

Vesting in interest of gift to unborn person not entitled to possession immediately on birth.

56. The provisions of the Indian Succession Act, 1865, sections 100 to 104, both inclusive, 107 and 108, 111 to 127, both inclusive, and 167, shall be applicable, so far as the nature of the case will admit, to gifts contained in settlements.

Application of sections of Act X of 1865 to gifts contained in settlements.

57. Whenever a person becomes entitled in possession by virtue of a settlement to money or any other property yielding income, he shall be entitled to receive the interest or income thereof from that time.

Right to income of property coming into possession under settlement.

CHAPTER VIII.

OF GIFTS FOR RELIGIOUS AND CHARITABLE PURPOSES.

58. No person having a nephew or niece, or any nearer relative, shall have power to give any property to religious or charitable uses, by any instrument which is required to be registered, unless such instrument be executed not less than twelve months before his death, and duly registered.

Gift to charitable uses by person having certain relatives.

59. Subject to the provisions of the last preceding section, property may be assured in perpetuity for the benefit of the public in the advancement of religion, knowledge, commerce, health, safety, or any other object beneficial to mankind. But no such assurance shall take effect until it has been sanctioned by some public authority to be designated by the Local Government by notification in the official Gazette.

Assurance of property in perpetuity for use of any community or institution.

The grant or refusal of such sanction may be notified by an entry in the book in which the assurance is registered, and the registering officer shall make such entry on receiving from the public authority aforesaid a written order in this behalf.

If no such order is made within two years next after the time when the property becomes applicable for the benefit of the public, it shall be deemed that sanction has been granted.

If such sanction is refused, the property shall devolve as if no such assurance had been made.

CHAPTER IX.

OF APPORTIONMENT.

60. All rents, annuities, pensions, dividends and other periodical payments shall, upon the determination of such payments by the death of the recipient or otherwise, be apportionable as if they had been made to accrue due from day to day, but to be payable on the days appointed for the payment thereof.

Apportionment of rents and other periodical payments.

Nothing in this section shall affect any express provision in any instrument binding on the recipient.

CHAPTER X.

OF CERTAIN RIGHTS AND LIABILITIES OF LIMITED OWNERS.

61. A person having a limited interest in any immoveable property is not entitled to do or omit any act the doing or omitting of which is destructive or permanently injurious to such property.

Rights and obligations of persons having limited interest in property.

EXPLANATION.—No act done in the reasonable use and enjoyment of property is destructive or injurious within the meaning of this section, though it may exhaust the substance of the property.

Illustrations.

(*a*). A Hindú widow is in possession as such of land protected from floods and rendered cultivable by a dyke. She is not entitled to cut the dyke and turn the land into a lake.

(*b*). A is tenant for life of land on which a dwelling-house stands. He is not entitled to pull down the house. Nor must he suffer it to fall for want of necessary repairs.

(*c*). A is tenant for life of land in which coal lies. He is entitled to work and use the coal.

(*d*). A is tenant for life of land planted with trees. He is entitled to cut the trees at maturity, but is not entitled to cut them when immature, except for the purpose of thinning out or otherwise benefiting the plantation.

Save as aforesaid, such person or his legal representative has the same right as a lessee to remove during the continuance of such interest, or within a reasonable time afterwards, all things which he has affixed to the soil in which he had such limited interest, and all crops growing upon the land for the season current when such limited interest determines.

62. A person having a limited interest in possession in any property, is bound to discharge all periodical payments due on account of any mortgage thereon taking effect during the continuance of his interest in priority to such interest, and all taxes and other public periodical charges to which such property is liable.

Obligation of limited owner in possession of property mortgaged.

63. Every advantage or increase of value accruing (accidentally or through the exertions of any one having a limited interest) to any property in which successive interests exist, belongs to all the persons having any interest in the property in the same shares and manner as they are entitled to the property.

Right to increase of value to property in which there are successive interests.

EXPLANATION.—A person having a mortgage on property has not thereby an interest within the meaning of this section.

64. Any person claiming any immoveable property after the death of any minor, married woman, or other person, and having reason to believe that such minor, married woman or other person is dead, and that his or her death is concealed by his or her guardian, husband or any other person, may once a year move the High Court to order the person concealing or suspected to conceal such person to produce him or her at such time and place, and before such persons (if any), as the Court may direct. And the High Court, if it think fit, shall make such order, and in case of disobedience thereto, the person so claiming the property may enter thereon and receive the profits thereof as if the person so concealed or suspected to be concealed were dead.

Discovery of death of tenant for life.

65. Nothing in this chapter applies to lessees.

Saving of lessees.

CHAPTER XI.

OF THE DISCRETION OF THE COURTS TO DEAL WITH SETTLED LAND.

66. If any person having, under a settlement or will, a limited interest in possession in any immoveable property, apply under this section to the High Court or District Court within the local limits of whose ordinary original civil jurisdiction such property or any part thereof is situate, the Court may, if it deem it just and expedient to do so,—

Powers exercisable by Court on application of person interested in possession in settled immoveable property.

(*a*) make such leases of the whole or any part of the property for such terms of years, for such rents, with such powers, and with such conditions, reservations and exceptions as the Court thinks fit;

(*b*) make such sales of the whole or any part of the property, for such sums, payable either at once or periodically, with such powers, and with such conditions, reservations and exceptions as the Court thinks fit;

(*c*) appropriate any part of the property for the formation of streets, roads, gardens or other open spaces, tanks, sewers, drains or water-courses, and authorize the erection of buildings and works thereon;

and generally deal with the property in any way the Court may think just and beneficial to the persons interested therein.

67. Every such application shall be in writing, and notice thereof shall be served through the Court on all trustees under the settlement or will and on any other persons who in the opinion of the Court ought to be so served, and shall be published in such newspapers as the Court may direct.

Service of notice and advertisement of application.

68. The Court may permit any person, whether interested in the property or not, to appear and be heard in opposition to or in support of any such application on such terms as to costs or otherwise as it thinks fit.

Appearance to oppose or support application.

69. The Court may order the costs of all or any parties to any application under this section to be paid out of any principal money receivable on account of any dealing with the property which is the subject of the application or to be a charge on such property or on any other property belonging to the same owners.

Costs of application.

70. Every lease made under section 66 shall take effect in possession; and on every such lease shall be reserved the best rent that can be reasonably obtained, to be made payable half-yearly or oftener without taking any fine or other benefit in the nature of a fine.

Leases under section 66.

71. All or any part of the proceeds of any lease, sale or disposition under section 66 may, if the Court think fit, be paid into Court.

Payment into Court of money receivable under section 66.

72. The Court shall declare what parts of such proceeds so received shall be considered as income, and may direct the same to be paid to the person for the time being entitled in possession to the property dealt with; and the residue of such money shall be applied as the Court shall direct in one or more of the manners following:—

Power to direct payment of income to person entitled.

Application of residue.

(*a*) the payment of the amount due in respect of any charge on the property dealt with;

(*b*) the purchase of other property or the investment in securities for the benefit of the persons interested in the property dealt with;

(*c*) the payment to any person becoming absolutely entitled to the property dealt with;

EXPLANATION—In this section the term "securities" means—

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

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

(*f*) stock or debentures of, or shares in, railway or other companies, the interest whereon has been guaranteed by the Government of India; and

(*g*) 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.

CHAPTER XII.

OF POWERS.

73. Where a person is authorized to determine the disposition of property otherwise than by virtue of his ownership, he is said to have power to appoint such property.

Power to appoint, defined.

The person who gives the power is called the donor, the person to whom the power is given is called the donee, and the persons for whose benefit the power is to be exercised are called the objects of the power. A person to whom any property is appointed is called an appointee.

Donor, donee, objects, appointee, defined.

Illustration.

A grants land to B for life, with remainder to such of B's children as B shall appoint. B appoints to C and D, two of his children, in equal shares. A is the donor of the power, B the donee, B's children the objects, and C and D the appointees.

A power authorising the donee to appoint to whomsoever and for whatsoever interest he pleases, is called a general power.

General power.

A power restricted in respect either of its objects or the interests that may be conferred under it, is called a special power.

Special power.

Rules as to all powers.

74. Where a power is vested in several donees, all who are living must unite in its execution; but in case any one or more of them die during the continuance of the power, it may be exercised by the survivors or the survivor, unless a contrary intention appears by the instrument creating the power.

Exercise of power vested in several donees.

75. The donor may direct that the power shall be exercised by will only or by non-testamentary instrument only.

Modes in which powers may be executed.

If he directs that the power shall be exercised by will only, it must be exercised by will duly executed according to the provisions of the Indian Succession Act, or according to such other law as at the time of the execution of the power shall be applicable to a will executed by the donee.

If he directs that the power shall be exercised by non-testamentary instrument only, it must be exercised by an instrument executed as an assurance and registered.

If he imposes no such restriction on the exercise of the power, it may be exercised either by such will or by such instrument as lastly hereinbefore mentioned.

When the power is not properly exercised, no Court shall in any case compel the person in possession of the property to which the power relates to deliver the property as if the power had been properly exercised or shall otherwise aid the defective execution.

Jurisdiction to aid defective executions abolished.

76. All appointments made in the manner directed by section 75 shall be deemed to be executed and attested in proper form, notwithstanding that some other mode of execution or attestation has been prescribed by the donor.

Validity of forms hereby prescribed.

77. Where a power is to be exercised with the consent of several persons, all who are living must concur in the consent, but in case any one or more of them die during the continuance of the power, the consent of the survivors or the survivor is sufficient, unless a contrary intention appears by the instrument creating the power.

Concurrence where power is to be exercised with consent of several persons.

Consent to the exercise of a power must be given by an instrument executed as an assurance and registered.

Consent to the exercise of a power need not be given by the instrument by which the power is exercised, but if it is given by a different instrument, such instrument must be executed at a time not later than the time at which the donee of the power executes the instrument by which he exercises the power.

78. If a person disposes of property in such manner as is authorized by a power vested in him, such disposition shall take effect out of the power, notwithstanding that the power is not mentioned or referred to in the instrument of disposition.

Recital of power not necessary.

Illustration.

Land is settled upon A for life with a special power to charge, by a non-testamentary instrument, portions in favour of his children. Subsequently a general power to dispose of the land by any instrument is vested in A. He executes an assurance, by which he directs that a sum of money shall be raised out of the land and settled on his son B for life, with remainder to B.'s wife and children. Such an appointment cannot take effect under the special power, but may be treated as a valid exercise of the general power.

79. The donee of a power need not exercise it entirely and at once by a single instrument, but he may from time to time exercise any unexhausted part thereof at his discretion.

Power exercisable by several instruments executed at different times.

If the donee has purported to exercise his power in such a manner that his appointment is void, the power is, to that extent, unexhausted.

80. Where a power given by any instrument is void in its creation, no disposition or gift made by the same instrument shall be deemed void merely because it is intended to take effect after the interests to be appointed under the power or in default of any such appointment.

Disposition intended to take effect after interests appointed under void power.

Illustration.

A marriage-settlement provides that the settled property shall belong to the husband and wife successively for their lives; that after the death of the survivor of them, it shall go to such of the children of the marriage and in such shares as the husband and wife shall jointly appoint, the interest of each such child to become vested in him on his attaining the age of twenty-five years; and that in the event of there being no child of the marriage who shall attain that age, or in default of appointment, the property shall belong to the husband or his legal representative.

Here the power to appoint the property is, under section 56, void in its creation; but the ultimate interest given to the husband takes effect.

General Powers.

81. If the donor confers on the donee a general power, the donee shall, so far as regards his power of disposition, his creditors and all persons who contract with him for valuable consideration to obtain any interest in the property comprised in the power, be deemed to be the absolute owner of such property for such interest therein as the donor could dispose of.

Effect of general power.

This rule is to take effect notwithstanding that the donor has prescribed some particular method for executing the power.

Illustrations.

A, the absolute owner of land, settles it on B for life, with remainder to such purposes as B—

shall appoint, or
shall by deed appoint, or
shall by will appoint, or
shall by deed or will appoint,

and, in case B dies without making any such appointment, on C absolutely.

If B—

grants the land by assurance, or
bequeathes it, or
contracts to sell it, or
incurs debt,

the property is liable, in the hands of either B or C, as the case may be, to the claims of B.'s grantee, legatee, purchaser or creditors, as the case may be.

If B dies having made no disposition of the property, C is entitled to it, subject to any claims which B's creditors may establish against it.

82. If the donor confers on the donee a general power, and makes no disposition of the property in the event of non-appointment, the donee shall be considered as the absolute owner of the property for such interest therein as the donor could dispose of.

Effect of general power without disposition of property in case of non-appointment.

Illustration.

A, the absolute owner of property, settles it on B for life with remainder to such purposes as B shall appoint, and makes no gift over in default of appointment. B dies without making any disposition of the property. The property vests in the representatives of B, and does not revert to A or his representatives.

Special Powers.

83. If the donee has only a special power, he cannot confer any interest in the property comprised therein which could not have been conferred by the donor at the time of the creation of the power.

Interest conferrible by donee of special power.

Illustrations.

(*a*). A settles a fund upon B for life with remainder to such purposes as B shall appoint. After the settlement is made C is born. B then appoints the fund to C for life with remainder to C's children absolutely. The appointment is valid, though C has no children at the time.

(*b*). A settles a fund upon B for life with remainder to his children as he shall appoint. At the date of the settlement B has no child, but afterwards has a son C. B then appoints to C for his life, with remainder to his children. Such interest could not have been conferred by A, and B's appointment is void.

84. Where the donee of a special power purports, in exercise of the power, to appoint to objects authorized by the power and also to objects not so authorized, the appointment in favour of the authorized objects shall take effect if their interests can be separated from those of the unauthorized objects.

Effect of appointment to objects some authorized and others unauthorized.

Illustration.

Property is settled on A for life, and after his death on such of his children as he shall appoint, and in default of appointment to all A's children equally. A appoints that the property shall go after his death to his widow for her life, and after her death to two of his sons, C and D, in equal shares. There are five children of A. The appointment in favour of A's widow is invalid, and the rents and profits of the property during her life will go to all the five children in equal shares, but after her death to C and D absolutely.

85. Where the donee of a special power purports in exercise of the power to confer a larger interest than is authorized thereby, such appointment shall, if the appointee so elect, be void only for the excess, and good for the residue, if they can be separated.

Appointment in excess of power when voidable at election of appointee.

Illustrations.

(*a*). A has a life-interest in Rámnagar, with power to grant leases thereof for 30 years. A makes a lease of Rámnagar for 50 years. Such lease is good for 30 years only.

(*b*). A having a life-interest in Rámnagar and Sultánpur, with power to grant leases of Rámnagar for 21 years, grants a lease comprising both Rámnagar and Sultánpur for 21 years. After A's death the lessee may, if he thinks fit, elect to retain the lease as a lease of Rámnagar only, till the end of the 21 years.

86. Where, by an appointment under a special power, interests authorized and also interests unauthorized are created, and the interests authorized cannot be distinguished from those unauthorized, the whole is void.

Invalidity of appointment creating authorized and unauthorized interests not separable.

Illustrations.

(*a*). A fund is settled on A during his life, and after his death on his children as he shall appoint. A appoints the annual income for the benefit of his son B and his wife and children, in such manner as trustees shall think fit. The appointment is wholly void.

(*b*). Under a similar settlement, A having legitimate children by B, his wife, and others by C and D, his concubines, appoints the property to be divided among his children by B, C and D, the shares of the sons to be double those of the daughters. Here the interests authorized and unauthorized cannot be distinguished, and the appointment is wholly void.

87. When a person exercising a special power annexes to the gift a condition or qualification which is not authorized by the power, the gift is good and the condition or qualification only is void.

Appointment with unauthorized condition.

Illustrations.

(*a*). A, having a power to appoint a fund among his children, gives a part of it to his son B on condition that B shall settle it on B's children. The condition is void, and the gift is absolute.

(*b*). A, having a power to appoint a fund to a limited class of objects of whom B is one, appoints it to B, adding a condition that B shall release a debt owing to him by A, and also pay Rs. 1,000 to C. The appointment is good; but the condition is void.

88. If a beneficial interest in immoveable property and also a power to let it are given to the same person and he grants his interest in the property, he may enter into a contract not to exercise his power.

Contract not to exercise power of leasing.

89. Save as provided by section 88, an agreement or undertaking not to exercise a power which is given for the benefit of persons other than the donee is void.

Invalidity of agreement not to exercise power.

90. Where a power given for the benefit of persons other than the donee is exercised with a view to the benefit, direct or indirect, of the donee, in any mode not intended by the donor, the appointment is void.

Frauds on powers.

Illustrations.

(*a*). A, having power to appoint a fund in favour of any of her children, appoints the whole fund absolutely to one child, who has previously entered into an agreement with her to give one-half of the fund to A's husband absolutely. The appointment is void.

(*b*). A, having power to appoint a fund in favour of any of his children, appoints a portion of the fund to his son C, a minor, whom he knows to be suffering from a mortal disease; A being the person entitled to C's property in the event of his death. The appointment is void.

(*c*). A, having power to grant leases of certain settled land, exercises the power in favour of B in consideration of Rs. 1,000 paid to A by B as a fine or premium. The lease is void, and A holds the Rs. 1,000 in trust for the persons interested under the settlement.

91. If the instrument by which a power of appointment in favour of specified objects is created does not provide for the event of no appointment being made, the property belongs (subject to any appointment that may have been made) in equal shares to the said objects.

Right to property in default of appointment.

Illustration.

A settles property on B for life with remainder to B's children as he shall appoint, and makes no disposition in default of appointment. B has two children, C and D, and appoints Rs. 1,000, part of the property, to C. Then C dies. Then B dies without making any further appointment. After paying Rs. 1,000 to C or his representative, the residue of the property is divisible in equal moieties between D and the representative of C.

92. Under a power of appointment in favour of several objects, an appointment of the whole property to one or more of such objects exclusively of the others is valid:

Appointment of whole property to some only of several objects in favour of which power is given.

Provided that, where the assurance creating the power declares the minimum amount or value of the share from which no object of the power is to be excluded, the appointment shall be invalid so far as it excludes any such object from any such share, and no farther.

CHAPTER XIII.

OF PROPERTY HELD BY SEVERAL PERSONS.

93. Where property is held by more persons than one, the share or any of them having at the time of his death a beneficial but terminable interest therein shall

Right to property by survivorship created only by express words.

become vested in his legal representative, unless the property is held under an instrument which expressly provides that on the death of one his share shall accrue to the survivors.

Nothing in this section applies to property belonging to an undivided Hindú family.

Illustration.

A and B jointly advance money on mortgage. A dies intestate. The money advanced by A belongs to his legal representative.

Partition of immoveable property.

94. When immoveable property is held in possession by joint owners, any one of them may institute a suit in the proper Court, and such Court may direct a partition of the property to be made among the joint owners, and for the purposes of partition may, in order to equalise the value of the shares, direct any money to be paid by one to another or to be charged on one share in favour of another.

Power to direct sale and to distribute proceeds.

If it appear to the Court that a sale of the property and a distribution of the proceeds would be more beneficial for the persons interested than a division of the property between them, the Court may, on the application of any such person, direct a sale of the property.

Power to allow person interested to bid for property sold for purpose of partition.

95. On any sale under the last preceding section, the Court may, if it think fit, allow any of the persons interested in the property to bid at the sale, on such terms as to setting-off or accounting for the purchase-money or any part thereof, or as to any other matters, as to the Court seems reasonable.

Payment into Court.

96. All sums of money paid under the two last preceding sections may if the Court think fit, be paid into Court.

Saving of laws relating to partition of revenue-paying estates.

97. Nothing in this chapter shall affect any local law for the time being in force relating to the partition of estates paying revenue to Government.

Waste by one joint-owner.

98. When one joint-owner of immoveable property commits, or threatens to commit, waste to the same without the consent of the other joint owner, that other may institute a suit to recover compensation for the injury caused to him by the waste or to obtain an injunction to stay the waste, as the case may require.

CHAPTER XIV.

OF ASSIGNMENTS OF THINGS IN ACTION.

Sale, &c., of things in action.

99. No sale or disposition of, or charge on, any debt, and no sale or disposition of, or charge on, any beneficial interest in moveable property, shall have any operation against the debtor or against the person in whom the property is vested, until notice of the sale, disposition or charge is given to him, unless he is a party to such sale, disposition or charge; and every dealing by such debtor or person, not being a party to, and not having received notice of, a sale, disposition or charge, with the debt owing by him, or with the property vested in him, shall be valid as against such sale, disposition or charge.

Illustrations.

(*a*). A owes money to B, who assigns the debt to C. B then demands the debt from A, who having no notice of the assignment, pays B. The payment is valid, and C cannot sue A for the debt.

(*b*). A has jewels deposited with B, a jeweller. A mortgages them to C. A then executes an assignment of them to D, who takes his assignment to B and gets the jewels from him before he, B, has received any notice of C's mortgage. B is justified in handing the jewels to D, and C has no remedy against D.

Notice to be in writing signed.

100. Every such notice must be in writing signed by the person making such sale, disposition or charge, or by his agent duly authorized in this behalf.

Liability of assignee of thing in action.

101. The person to whom a debt or charge is assigned shall take it subject to all the liabilities to which the assignor was subject in respect thereof at the date of the assignment.

Illustration.

(*a*). A debenture is issued in fraud of a public company to A. A sells and transfers the debenture to B, who has no notice of the fraud. The debenture is invalid in the hands of B.

Saving of negotiable instruments.

102. Nothing in this chapter applies to debts secured by negotiable instruments.

THE FIRST SCHEDULE.

(*a*). STATUTES.

Year and chapter.	Subject.	Extent of repeal.
13 Ed. I, c. 22	Waste	The whole.
31 Hen. VIII, c. 1 ...	Partition	The whole.
32 Hen. VIII, c. 62 ...	Do.	The whole.
13 Eliz., c. 5...	Fraudulent Conveyances	The whole.
27 Eliz., c. 4...	Do.	The whole.
6 Anne, c. 72	Discovery of deaths of tenants for life.	The whole.

(*b*). ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
XXIV of 1841	Illusory appointments, &c.	So far as regards illusory appointments.
X of 1865 ...	Succession ...	Illustration (*g*) to sec. 107.
IV of 1872 ...	Panjáb Laws Act ...	So far as it relates to Bengal Regulation I of 1798 and conditional sales made after this Act comes into force.
XX of 1875 ...	Central Provinces Laws Act.	So far as it relates to Bengal Regulation XVII of 1806

(*b*). ACTS OF THE GOVERNOR GENERAL IN COUNCIL,—*concluded*.

Number and year.	Subject.	Extent of repeal.
		and mortgages and conditional sales made after this Act comes into force.
XVIII of 1876	Oudh Laws Act ...	So far as it relates to Bengal Regulation XVII of 1806 and mortgages and pledges made after this Act comes into force.

(*c*). REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bengal Regulation I of 1798.	Conditional sales ...	The whole Regulation except as to conditional sales made before this Act comes into force.
Bengal Regulation XVII of 1806.	Redemption ...	The whole Regulation except as to mortgages and conditional sales made before this Act comes into force.
Bombay Regulation V of 1827.	Mortgagees in possession	Section 15 except as to mortgages and pledges made before this Act comes into force.

THE SECOND SCHEDULE.

TRANSFER ON SALE.

(*See section* 8).

This assurance is made the day of 18 , between *A B*, of , and *C D*, of . In consideration of rupees paid to me, *A B*, by *C D*, the receipt whereof I do hereby acknowledge, I, *A B*, do hereby grant all that (*description of property*) unto *C D*. In witness whereof, I have signed these presents.

(*A B*)

CHARGE.

(*a*). This assurance is made the day of 18 , between *A B*, of , and *C D*, of . I, *A B*, do hereby charge Sultánpur to *C D*, with five thousand rupees and interest at the rate of per cent. per , payable on the day of . In witness, &c.

(*b*). This assurance is made the day of 18 between *A B*, of , and *C D*, of . I, *A B*, do hereby charge Sultánpur to *C D*, with the sum which shall be due to him on the balance of my account, not exceeding rupees, together with interest thereupon at the rate of per cent. per . In witness, &c.

LEASE.

(*See section* 42).

This assurance is made the day of , between *A B*, of , and *C D*, of . I, *A B*, do hereby lease to *C D* all that (*description of property*), to hold the same from the day of for the term of at the rent of rupees, payable by equal payments on the day of and the day of in each year. In witness whereof we have, &c.

STATEMENT OF OBJECTS AND REASONS.

This Bill embodies the bulk of the rules submitted in the sixth report of the late Indian Law Commission. One of its chief objects is to bring the rules which regulate the transmission of property between living persons into harmony with the rules affecting its devolution upon death, and thus to furnish the necessary complement of the work commenced in framing the law of succession, now Act X of 1865. Another is to render more simple and efficient the law relating to mortgages and conditional sales. The expediency of legislation on this subject was affirmed by the Judicial Committee of the Privy Council in the case of *Tambasvámi Mudali* v. *Muhammad Husain*, L. R. 2, Indian Appeals, 241. Rules are also laid down on the other subjects hereinafter mentioned.

The Bill is divided into fourteen chapters.

Preliminary.

Chapter I contains the usual preliminary matter. The repealing clause will get rid of several obsolete statutes relating to land which are still in force in the Presidency Towns and, in the case of Europeans, may possibly be in force elsewhere. The saving clause exempts from the operation of the proposed Act acquired rights and liabilities incurred before the Act comes into force, subsequently acquired rights of pre-emption, options of mortgagees to make further advances (such options exist in Malabar and possibly elsewhere), contracts of bottomry and respondentia, transfers of British ships, sales in execution of decrees or for arrears of rent or revenue.

Assurances of Immoveable Property.

Chapter II deals with assurances of immoveable property. It declares (section 4) that every person competent to contract may make an assurance of property of which he is the owner, or which he is entitled to transfer, or on which he is entitled to create a charge. It declares (sections 5, 6 and 7) that land may be conveyed (*a*) with the benefit of, or subject to, an easement: (*b*) subject to an obligation for the benefit of the public or of the neighbouring owner, or (*c*) with the reservation of any right of user, severance and removal. It lays down rules (section 8) as to the mode in which the transfer *inter vivos* of immoveable property can alone be effected, and applies (section 9) to assurances the rules of construction contained in the Succession Act. It declares (section 10) that, unless a contrary intention appears by the assurance, a grant shall be deemed to pass to the grantee all the interest which the grantor is capable of passing in the subject; and a grant of land shall be deemed to comprise trees and fixtures. Covenants running with the land are dealt with by the same section.

Sales of Immoveable Property.

The Bill then enumerates (section 11) the rights and liabilities which, in the absence of any provision to the contrary, arise in the case of a sale of land. The principal changes in the law here made are as follows: the seller will be responsible for loss caused to the buyer, or any person claiming under him, through any invalidity of the seller's title not known to the buyer when the contract was entered into and the seller's lien for unpaid purchase-money will cease as soon as the assurance is registered. Section 12 declares that, except so far as regards the vendor's lien, a contract for sale shall not of itself have the effect of creating any interest in the property sold: the Bill will thus get rid of much difficult law relating to the purchaser's equitable ownership, and the rights created by charging and assigning it. Lastly, section 13 declares that a person paying the purchase-money for any immoveable property, but having the transfer made to another, will not by reason of the payment be entitled to the property or to any interest therein. It will thus become the absolute property of the transferee, unless he is made a trustee in some way more definite than by the mere payment of the money by another person; and it is hoped that this rule will tend to prevent the litigation which arises from the doctrine of equitable presumption.

Mortgages and Charges.

Chapter IV deals with mortgages and charges. 'Mortgage' is so defined and explained as to include, besides simple mortgages, usufructuary mortgages, mortgages by conditional sale, and their combinations. The Bill declares (section 15) the respective rights of mortgagor and mortgagee on completion of a mortgage. It defines (sections 16, 17 and 18) the rights and duties of a mortgagee in possession. It shews when the mortgagor or the mortgagee may obtain an injunction to stay waste committed or threatened by the other. It provides rules (sections 19—24) as to suits for foreclosure or sale. Powers of sale given by the mortgage-deed to the mortgagee have been held void in the Mufassal: the Bill (section 24) declares them to be valid: but contains provisions for the protection of the mortgagor similar to those in 23 & 24 Vic., c. 145, ss. 11—14. It provides rules (sections 25, 26 and 27) as to suits for redemption. It contains provisions as to interest (section 28) and costs (sections 29, 30). It declares (section 31) that a deposit by a debtor of his title-deeds, shall be deemed to be only evidence of a contract for a mortgage and to entitle the creditor merely to sue for specific performance. Any person having an interest in the property charged may prevent a sale at the suit of a mortgagee (section 35) by paying off the mortgagee who requires it, and the registration of the mortgagee's receipt for the money will be sufficient without any further assurance. If the payment be made by a person having the whole interest in the property subject to the mortgage, the mortgage so paid off will (section 36) cease to exist: if the payment be made by a person not having the whole of such interest, he will acquire (section 37) the rights of the incumbrancer whom he has paid off.

The Bill abolishes the system of tacking, by declaring in sections 38 and 39 that no mortgagee paying off a prior mortgage shall thereby acquire any priority in respect of his original mortgage; that no mortgagee making a subsequent advance to the mortgagor shall thereby acquire any priority in respect of his security for such advance; and that, if the owner of two properties creates separate mortgages upon them by separate assurances, each property may be redeemed or dealt with irrespectively of the other, though the mortgages are created in favour of the same mortgagee.

It has been held that, where a mortgage extends to future advances, the mortgagee cannot safely make such advances, if he has notice of an intervening second mortgage. But the Bill (section 34) provides that, if a charge made to secure the balance of a running account expresses the maximum to be secured thereby, a second charge shall be postponed to the first charge in respect of advances not exceeding the maximum, though made subsequently to the second charge with notice thereof.

Leases.

Chapter V deals with leases of immoveable property. It lays down rules (section 43) as to the commencement and duration of leases. It states in some detail (section 44) the obligations which, in the absence of any stipulation to the contrary, are to arise out of the relationship of landlord and tenant. Special notice may be called to the provision enabling a lessee, where the lessor omits to make repairs which he is bound to make, himself to make them and deduct the expense from the rent, and the similar provision for the case of failure on the part of the lessor to make payments, which, if not made, are recoverable against the thing leased; to the provisions binding tenants to inform their landlords of proceedings to eject, and of encroachments, and to the power of obtaining a decree for the rescission of a lease, in a suit by either party, in case of misconduct by the other.

The rules as to fixtures in section 44, clauses (*q*) and (*r*), are, it is thought, likely to prove useful. No distinction is made between ornamental, trade and agricultural fixtures, save that the landlord is given a right (resembling that conferred by 15 Vic., cap. 25, section 23) to purchase agricultural fixtures.

The rest of this chapter saves (section 45) any right to distrain possessed under any local law: provides rules (section 46) as to the duration of leases in the absence of written agreement or of local law or usage; and treats (section 47) of the effect of holding over.

Exchanges.

Chapter VI deals with Exchange or Barter. It is taken from the New York Civil Code, and merely declares that each party has the rights and obligations of a seller as to that which he gives, and those of a buyer as to that which he takes; and that, on an exchange of money, each party warrants the genuineness of the money given by him.

Settlements.

Chapter VII deals with settlements, which are defined so as to include endowments and absolute gifts to children and others, excluding, however, gifts by Natives. The Bill declares (section 50) that a settlement may be binding, though not made for a consideration. Settlements made in fraud of creditors will be voidable (section 51) at their option; but not as against persons who, without notice and for valuable consideration, have acquired interests thereunder. The English law, by which a voluntary settlor of land can by subsequent sale defeat the settlement he has made, is not perpetuated here. Conditions restraining any person from parting with his or her interest will be void (section 52), and when property is settled on a married woman, it will therefore no longer be possible to deprive her of the power of anticipation. Such power is the logical consequence of a married woman's capacity, under Act IX of 1872, to enter into contracts. The Bill also contains provisions as to making interests under settlements or wills determinable on insolvency or attempted alienation (section 53), as to the vesting of gifts in general terms (section 54), as to the vesting of a gift to an unborn person not entitled to possession immediately on birth (section 55). Various sections of the Indian Succession Act (100—104, 107, 108, 111—127, 167) are applied (section 56), so far as the nature of the case will admit, to gifts contained in settlements.

Gifts for Religious and Charitable purposes.

In accordance with the Succession Act, the Bill prohibits (section 58) persons who have near relatives from giving property to religious or charitable uses unless by an instrument executed not less than twelve months before their death and duly registered. And while allowing property to be given in perpetuity for such uses, the Bill requires (section 59) that it shall be given with the sanction of some public authority to be designated by the Government. A mode of notifying the grant or refusal of such sanction is provided. Where the sanction is refused, the property will devolve as if the gift had not been made.

Apportionment.

Chapter IX consists of a single section (60) treating of the apportionment of rents and other periodical payments.

Rights and Liabilities of limited Owners.

In Chapter X, the Bill abolishes the distinction between limited owners with, and those without, impeachment of waste. Such persons (section 61) will not be entitled to do any act destructive or permanently injurious to the property; but it is explained that no act done in the reasonable enjoyment of property (such, for example, as working a mine) is 'destructive' or 'injurious,' though it may exhaust the substance of the property. The power of such persons and their representatives to remove fixtures will be the same as that given to tenants under a lease. Persons having limited interests in possession will be bound (section 62) to discharge periodical payments due under prior mortgages and also taxes and other public periodical charges. The right to increase in the value of property in which there are successive interests is declared (section 63); and a provision (resembling that made by 6 Anne, chapter 72, section 1) is made for the production of tenants for life, when the remainder-man has reason to suspect fraud.

Leases and Sales of settled Estates.

Chapter XI is suggested by the English Statute 19 & 20 Vic., cap. 20. It gives the Courts (here defined to mean only the High Courts and the District Courts) a power to deal with lands subject to a settlement or will, by lease or sale, or by appropriating any part of the property for the formation of streets, roads, gardens, tanks, &c. The various modes in which the proceeds of the sales or leases may be applied are specified.

Powers.

Chapter XII treats of powers, *i. e.*, rights to determine the disposition of property otherwise than by virtue of ownership. It reproduces the principal rules of the English law on the subject. But the Bill does not propose to give the Courts power to aid defective executions of powers. This jurisdiction does not rest on any sound principle, and is, indeed, hardly consistent with a strict system of registration. In the case of the exercise of a power given to several donees some of whom die before it has been fully exercised, the Bill declares (section 74) that the survivors may do all that might have been done by the whole number. An analogous declaration is made (section 77) as to a power exercisable with the consent of several persons.

Property held by several Persons.

Chapter XIII contains some rules as to the devolution of shares of several persons holding the same property. The Bill proposes to declare that a right by survivorship can be created only by express words. This chapter also contains some provisions (sections 94, 95, 96) as to partitions of immoveable property, which may be useful in cases to which no local law as to the partition of revenue-paying estates applies. In case of illegal waste by one of several persons holding the same property, power is given (section 98) to sue for compensation or to obtain an injunction.

Assignments of Things in Action.

Chapter XIV deals with the assignment of debts and other things which are not in the possession of the person entitled to them, but for the recovery of which he may be obliged to sue. The only change proposed to be made in what is now the law in all Indian Courts is, that the Bill requires (section 99) the assignee to complete his title by giving the debtor notice in writing of the assignment. Negotiable instruments are excluded from the operation of this chapter.

The subject of the Bill is one of great difficulty and complexity, and errors will doubtless be found in the present draft. Ample time will be given for the searching criticism which it is hoped the draft will receive at the hands of the Local Governments, the Judges and the legal profession.

SIMLA, *The 10th May* 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 23, 1877. 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 14th June 1877 :—

No. 11 OF 1877.

A Bill to amend the Bombay Revenue Jurisdiction Act, 1876.

WHEREAS it is expedient to exempt from the operation of the fourth section of the Bombay Revenue Jurisdiction Act, 1876, certain suits instituted in the Districts mentioned in the Schedule hereto annexed; It is hereby enacted as follows :— Preamble.

1. To section five of the said Act the following clause shall be added (namely)— Addition to section 5, Act X of 1876.

"and nothing in section four shall be held to prevent the Civil Courts in the Districts mentioned in the second Schedule hereto annexed from exercising such jurisdiction as, according to the terms of Acts No. XI of 1852, No. XXIII of 1871, and Bombay Acts No. II of 1863, No. VII of 1863 and No. III of 1874, or of any other law in force on the twenty-eighth day of March 1876, they could have exercised over claims against Government—

"(*a*) relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III. of 1874, or any other law for the time being in force, or of any other village-officer or servant:

"(*b*) to hold land wholly or partially free from payment of land-revenue:

"(*c*) to receive payments charged on, or payable out of, the land-revenue."

2. The following Schedule shall be added to the said Bombay Revenue Jurisdiction Act, 1876, (namely)— Schedule added to Act X of 1876.

"THE SECOND SCHEDULE.

The District of Ahmedabad.

The District of Kaira, exclusive of the Panch Mahâls.

The District of Broach.

The District of Surat, exclusive of the lapsed State of Mándvi, as described in the schedule annexed to Act X of 1848.

The District of Tanna.

The District of Colába, exclusive of the lapsed State of Colába mentioned in Act VIII of 1853.

The District of Ratnágiri.

The District of Kanara."

STATEMENT OF OBJECTS AND REASONS.

1. The Bombay Revenue Jurisdiction Act (X of 1876), section 4, sub-section (*a*), article 1, and sub-section (*f*), articles 1 and 2, withdraw from the jurisdiction of the Civil Courts in every part of the Bombay Presidency (1) claims against Government relating to property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act III of 1874, or any other law for the time being in force, or of any other village-officer or servant, and (2) claims against Government to hold land wholly or partially free from payment of land-revenue, or to receive payments charged on, or payable out of, the land-revenue.

2. The object of this Bill is to restore to the Civil Courts, so far as the Old Provinces are concerned, whatever jurisdiction has been taken away by the articles above referred to.

3. The reasons for the Bill are shortly as follows: In the Old Provinces the Courts had, to a certain extent, cognizance of the claims in question; obscure and disputed claims to exemption from land-revenue or from enhanced assessments are commoner there than in other parts of India; and for these and other causes the change effected by the articles above mentioned is distasteful to the population.

SIMLA, } A. J. ARBUTHNOT.
The 19th April 1877. }

A. PHILLIPS,
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 June 1877:—

No. 12 OF 1877.

A Bill to amend the Chutia Nágpur Encumbered Estates Act, 1876.

Preamble.

FOR the purpose of amending the Chutia Nágpur Encumbered Estates Act No. VI of 1876; It is hereby enacted as follows:—

Amendment of Act VI of 1876, section 12, clause 2.

1. For the word "six" shall be substituted the word "twelve" in the second clause of the twelfth section of the said Act.

STATEMENT OF OBJECTS AND REASONS.

The Government of Bengal being of opinion that the period of six months provided by section 12 of the Chutia Nágpur Encumbered Estates Act, 1876, is too short for deciding whether an estate should be retained under management or relinquished under that section, the period of six months is, by the amending Bill, increased to twelve months, which period it is believed will be sufficient for the purpose.

SIMLA; } A. J. ARBUTHNOT.
The 25th May 1877. }

A. PHILLIPS,
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 June 1877, and was referred to a Select Committee:—

No. 13 of 1877.

THE TRANSFER OF PROPERTY BILL, 1877.

CONTENTS.

Preamble.

CHAPTER I.
PRELIMINARY.

SECTION.
1. Short title.
Extent.
Commencement.
2. Repeal of Acts.
Saving of certain rights, liabilities, etc.
3. Interpretation-clause.

CHAPTER II.
OF ASSURANCES OF IMMOVEABLE PROPERTY.
4. Persons competent to make assurances.
5. Conveyance of easements.
6. Power to convey subject to obligation for benefit of public or neighbour.
7. Power to convey with reservation of certain rights.
8. Form of assurance.
9. Application of rules of construction.
10. Operation of assurance.
Things comprised in grant.
Covenants concerning its subject.

CHAPTER III.
OF SALES OF IMMOVEABLE PROPERTY.
11. Rights and liabilities of seller and buyer.
12. Contract for sale not of itself to create interest in property.
13. Purchase of immoveable property which buyer causes to be transferred to another.

CHAPTER IV.
OF MORTGAGES AND CHARGES.
14. Mortgage, mortgagor and mortgagee defined.
15. Respective rights of mortgagor and mortgagee.
16. Rights and duties of mortgagee in possession.
17. Receipts of mortgagee in possession.
18. Injunctions to restrain waste.
19. Preliminary decree in foreclosure-suit.
Procedure in case of payment of amount due and subsequent costs.
Final decree for foreclosure.
20. Power to order sale at instance of mortgagee.
21. Power to decree sale in foreclosure-suit.
22. Mortgagee not to bid at sale.
23. Recovery of balance due on mortgage.
24. Power of sale.
25. Preliminary decree in redemption-suit.
26. Loss occasioned by mortgagee's default.
27. Procedure where nothing due or amount paid.
Procedure when amount due is not paid.
28. Payment of interest.
Proviso.
29. Costs of mortgagee.
30. Costs of mortgagee subsequent to decree.
31. Effect of deposit of title-deeds.
32. Sale of property subject to mortgage.
33. Application of proceeds.
34. Mortgage to secure balance of account.
35. Right to pay off mortgagee in order to prevent sale.
36. Effect of such payment by person having whole interest in property charged.
37. Effect of payment by person only partially interested.

SECTION.
38. Tacking abolished.
39. Redemption of one or two properties separately mortgaged.
40. Rights and powers of transferee of mortgage debt or mortgaged property.
41. Charge made by assurance or will.

CHAPTER V.
OF LEASES OF IMMOVEABLE PROPERTY.
42. Form of written lease.
43. Exclusion of day on which term commences.
Duration of term.
Option to determine lease.
44. Rights and liabilities of lessor and lessee.
45. Saving of right to distrain.
46. Duration of certain leases in absence of written agreement or local usage.
47. Effect of holding over.

CHAPTER VI.
OF EXCHANGES.
48. Exchange defined.
Rights and obligations of parties.
Exchange of money.

CHAPTER VII.
OF SETTLEMENTS.
49. "Settlement" defined.
50. Consideration not necessary to make settlement binding.
51. Voidability of settlement made in fraud of creditors.
52. Condition restraining alienation of interest.
53. Condition making interest determinable on insolvency or alienation.
54. Vesting of gift in general terms.
55. Vesting in interest of gift to unborn person not entitled to possession immediately on birth.
56. Application of sections of Act X of 1865 to gifts contained in settlements.
57. Right to income of property coming into possession under settlement.

CHAPTER VIII.
OF GIFTS FOR RELIGIOUS AND CHARITABLE PURPOSES.
58. Gift to charitable uses by person having certain relatives.
59. Assurance of property in perpetuity for use of any community or institution.

CHAPTER IX.
OF APPORTIONMENT.
60. Apportionment of rents and other periodical payments.

CHAPTER X.
OF CERTAIN RIGHTS AND LIABILITIES OF LIMITED OWNERS.
61. Rights and obligations of persons having limited interest in property.
62. Obligation of limited owner in possession of property mortgaged.
63. Right to increase of value to property in which there are successive interests.
64. Discovery of death of tenant for life.
65. Saving of lessees.

CHAPTER XI.
OF THE DISCRETION OF THE COURTS TO DEAL WITH SETTLED LAND.
66. Powers exercisable by Court on application of person interested in possession in settled immoveable property.
67. Service of notice and advertisement of application.
68. Appearance to oppose or support application.
69. Costs of application.
70. Leases under section 66.
71. Payment into Court of money receivable under section 66.
72. Power to direct payment of income to person entitled.
Application of residue.

CHAPTER XII.
OF POWERS.
73. Power to appoint, defined.
Donor, donee, objects, appointee, defined.
General power.
Special power.
74. Exercise of power vested in several donees.
75. Modes in which powers may be executed.
Jurisdiction to aid defective executions abolished.
76. Validity of forms hereby prescribed.
77. Concurrence where power is to be exercised with consent of several persons.
78. Recital of power not necessary.
79. Power exercisable by several instruments executed at different times.
80. Disposition intended to take effect after interests appointed under void power.
81. Effect of general power.
82. Effect of general power without disposition of property in case of non-appointment.
83. Interest conferrible by donee of special power.
84. Effect of appointment to objects some authorized and others unauthorized.
85. Appointment in excess of power when voidable at election of appointee.
86. Invalidity of appointment creating authorized and unauthorized interests not separable.
87. Appointment with unauthorized condition.
88. Contract not to exercise power of leasing.
89. Invalidity of agreement not to exercise power.
90. Frauds on powers.
91. Right to property in default of appointment.
92. Appointment of whole property to some only of several objects in favour of which power is given.

CHAPTER XIII.
OF PROPERTY HELD BY SEVERAL PERSONS.
93. Right to property by survivorship created only by express words.

SECTION.
94. Partition of immoveable property. Power to direct sale and to distribute proceeds.
95. Power to allow person interested to bid for property sold for purpose of partition.
96. Payment into Court.
97. Saving of laws relating to partition of revenue-paying estates.
98. Waste by one joint-owner.

CHAPTER XIV.

OF ASSIGNMENT OF THINGS IN ACTION.
99. Sale, &c., of things in action.
100. Notice to be in writing signed.
101. Liability of assignee of thing in action.
102. Saving of negotiable instruments.

The First Schedule—Enactments repealed.
The Second Schedule—Forms.

A Bill to define and amend the law relating to the Transfer of Property.

WHEREAS it is expedient to define and amend the law relating to the transfer of property; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

This Act may be called "The Transfer of Property Act, 1877 :" Short title.

It extends to the whole of British India ; Extent.

And it shall come into force on the day of 1878. Commencement.

2. On and from that day the enactments specified in the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof. Repeal of Acts.

Nothing herein contained shall be deemed to affect— Saving of certain rights, liabilities, &c.

(*a*) any right or liability acquired or incurred before this Act comes into force or any remedy in respect of any such right or liability :

(*b*) any right of pre-emption acquired after this Act comes into force :

(*c*) any option of a mortgagee to make further advances required by the mortgagor :

(*d*) any contract of bottomry or respondentia :

(*e*) any sale, mortgage or other transfer of a British ship :

(*f*) any sale in execution of a decree or order, or for arrears of rent or revenue :

(*g*) the construction of any instrument executed before this Act comes into force.

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

"assurance" means any instrument not testamentary, creating, transferring or otherwise disposing of any interest in immoveable property : "assurance."

the person so creating, transferring or otherwise disposing, is called a grantor : the person in whose favour such creation, transfer or disposition is made, is called a grantee ; and the operation effected by an assurance is called a grant : "grantor." "grantee." "grant."

"registered" means registered in British India under the law for the time being regulating the registration of documents. "registered."

"affixed to the soil" means— "affixed to the soil."

(*a*) imbedded in the soil, as in the case of walls ;

(*b*) permanently resting upon it, as in the case of buildings ; or

(*c*) permanently attached to what so rests, as by means of nails, bolts or screws.

and all words occurring in this Act and defined in the Indian Contract Act, 1872, shall have the meaning attributed to them respectively by that Act. Words defined in Act I of 1872.

CHAPTER II.

OF ASSURANCES OF IMMOVEABLE PROPERTY.

4. Every person competent to contract may make an assurance of any immoveable property of which he is the owner, or which he is entitled to transfer, or on which he is entitled to create a charge. Persons competent to make assurances.

5. Immoveable property may be granted with the right to an easement affecting any other immoveable property belonging to the grantor, or subject to an easement for the benefit of any other property. Conveyance of easements.

Easements may be made the subject of separate grants.

Where any easement is actually enjoyed with any property the subject of any grant, the grant shall, unless a contrary intention appears by the assurance, be deemed to pass such easement.

6. Immoveable property may be granted subject to an obligation for the benefit of the public or of any neighbouring owner. Power to convey subject to obligation for benefit of public or neighbour.

Such obligation shall bind the grantee and all persons claiming the granted property under him, and may be the subject of a separate grant.

Whenever such an obligation is created for the benefit of the public, it may be enforced by the grantor and his legal representatives or by the Government as a civil right.

Illustrations.

(*a*). A grants certain land to Z subject to the condition that Z shall not, without the consent of A, build any dwelling-house within a hundred yards of certain adjoining land of A. A and all persons claiming such land under him may enforce this obligation on Z, and all persons claiming the granted land under him.

(*b*). A grants certain land to Z, subject to the condition that Z shall for ever maintain thereon a fountain for the use of travellers.

Z, being the owner of certain land, covenants with A that he will for ever maintain thereon a fountain for the use of travellers.

In each case either A or the Government may enforce the obligation against Z, and all persons claiming the land under him.

7. Immoveable property may be granted with the reservation of any right of using the same or of severing and removing any part thereof. Such rights may be the subject of separate grant. Power to convey with reservation of certain rights.

Illustrations.

(*a*). A may grant to B his lands of Rámnagar, reserving to himself the right to dig for and remove the coal and other minerals thereon, and to do in person, or by his servants, whatever is necessary for obtaining and removing the coal and other minerals.

(*b*). A may grant to B, by a separate assurance, the right to plant fruit-trees on A's lands of Rámnagar, and to gather the fruit.

8. An assurance may be made in the form in the second schedule hereto annexed, or in any other form which expresses an intention thereby, and without any further act, to grant any interest in immoveable property. Form of assurance.

9. The rules of construction which apply to testamentary instruments shall also be applicable to assurances, so far as the different nature of assurances will permit. Application of rules of construction.

10. Unless a contrary intention appears by the assurance, a grant shall be deemed to pass to the grantee all the interest which the grantor is capable of passing in the subject of the grant, and to comprise— Operation of assurance.

(*a*) trees and all other products of the soil ;

(*b*) things affixed to the soil, and, in the case of machinery so affixed, the moveable parts thereof ;

(*c*) in the case of a house, the locks, keys, bars, doors and windows,

and a covenant by the grantee concerning the subject of the assurance binds all persons claiming such subject under the grantee, and may be enforced by all persons claiming under the grantor, and a like covenant by the grantor binds all persons claiming the subject under the grantor, and may be enforced by all persons claiming under the grantee. Covenants concerning its subject.

CHAPTER III.

OF SALES OF IMMOVEABLE PROPERTY.

11. Unless a contrary intention appears from the assurance or, when no assurance has been made, from the contract, the seller and the buyer of immoveable property respectively possess the rights and are subject to the liabilities mentioned in the nine rules next following, or such of them as are applicable to the property sold : Rights and liabilities of seller and buyer.

(*a*). If the buyer, or any person claiming under him, suffers loss by reason of any invalidity of the seller's title not known to the buyer when the contract was entered into, the seller, or, where the seller is not the person for whose benefit the consideration was received, then such other person, is responsible for the loss so suffered.

(*b*). The seller has a charge upon the property for the amount of the purchase-money, or any part thereof, remaining unpaid ; but as soon as the assurance (if any) is registered, such charge shall cease.

EXPLANATION.—Money for which a bill of exchange has been taken remains unpaid, within the meaning of this clause, until the bill is paid.

(*c*). After the contract has been made, the seller is entitled to the rents and profits of the property until the time fixed for the completion of the sale, and if he has received any such rents and profits which accrued after that time, he must on completion account for them to the buyer. The buyer must, on completion, pay to the seller interest on the purchase-money from the time fixed for the completion of the sale. But this is not to preclude either party from obtaining compensation where loss has been occasioned by the default or delay of the other party.

(*d*). The buyer is entitled to a charge on the property for the amount of any purchase-money properly paid by him in anticipation of the completion of the sale.

(*e*). In the absence of fraud or misrepresentation the seller is not answerable for any latent defect in the property sold.

(*f*). After the contract has been made, the buyer is liable to bear any loss arising from the destruction or decrease in value of the property, and not caused by the vendor's fault, and is entitled to the benefit of any improvement in, or increase in value of, the property.

(*g*). The seller is bound to execute a proper assurance of the property when the buyer tenders it to him for execution at a proper time and place.

(*h*). When the buyer has been let into beneficial possession of the property pending discussions as to the seller's title thereto, and the contract is not completed owing to defects in such title, the buyer is not liable to pay for his use of the property.

(*i*). When the completion of the contract is delayed by the buyer, and, after the day fixed for completing it, the seller expends money on the property, the seller is entitled to recover the amount so expended, provided that such expenditure was required for the preservation of the property, or by any law for the time being in force.

12. Save as provided by section 11, clause (*b*), a contract for the sale of, or relating to, immoveable property, whether registered or not, shall not have the effect of creating any interest in, or charge on, such property ; but the only right of any person under the contract shall be to apply for specific performance, or for compensation, or for both, according to the rules laid down in the Indian Contract Act, 1872, and the Specific Relief Act, 1877. Contract for sale not of itself to create interest in property.

13. A person paying the consideration for any immoveable property, but having the transfer of it made to another person, is not, by reason of such payment, entitled to such property or to any interest therein. Purchase of immoveable property which buyer causes to be transferred to another.

CHAPTER IV.

OF MORTGAGES AND CHARGES.

Mortgage, mortgagor and mortgagee defined.

14. When any interest in specific property is actually or contingently transferred by one person to another for the purpose of securing the payment of money, the transfer is called a mortgage, the transferor is called a mortgagor, the transferee a mortgagee, the money of which payment is secured is called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

For the purposes of this chapter, any person claiming as heir, legatee, assignee, lessee or otherwise the interest of the transferor in the property subject to the mortgage, or any part of such interest, is a mortgagor; and any person claiming as heir, legatee, assignee or otherwise the interest of the transferee under the mortgage, or any part thereof, is a mortgagee.

EXPLANATION.—A judgment-creditor who attaches any mortgaged property or mortgage-money claims under the transferor or transferee (as the case may be) within the meaning of the second paragraph of this section.

Illustrations.

(*a*). A binding himself personally for the repayment of a loan, pledges certain land to B as collateral security for such repayment, but does not actually deliver possession.

(*b*). A not so binding himself, pledges certain land as in illustration (*a*), and covenants that in default of payment of the loan on a certain date the land pledged shall pass to B.

(*c*). A borrows money from B, and gives up certain land to B that he may retain possession thereof until he has from the rents and profits of the land repaid himself the sum so lent.

(*d*). A binding himself as in illustration (*a*), pledges certain land to B as a collateral security for the repayment, and permits B to receive the rents and profits of the land until he has repaid himself the loan, but does not actually deliver possession.

(*e*). A not so binding himself covenants that on default of payment of the loan on a certain date the land pledged shall pass to B. A meanwhile puts B into possession of the land, and allows him to receive the rents and profits in discharge of the loan.

(*f*). A charges certain land in favour of B with Rs. 1,000 and interest at the rate of twelve per cent. per annum.

(*g*). A charges a certain fund in favour of B with the amount which shall be due to him on the balance of A's account not exceeding Rs. 1,000, together with interest thereon at the rate of twelve per cent. per annum.

(*h*). A borrows Rs. 10,000 from B and conveys certain land to B in trust that the same shall stand charged with the payment to B of the Rs. 10,000 and interest and subject thereto in trust for C and others, and the deed confers express power on B in default of payment to sell the land.

Each of these transactions is a mortgage. A is the mortgagor, B the mortgagee.

(*i*). A, in consideration of a loan of money paid to him by B, makes over his land to B for a term of twenty years, but does not bind himself to pay to B principal or interest. This is not a mortgage.

Respective rights of mortgagor and mortgagee.

15. On the completion of a mortgage the mortgagor has the following rights:—

(*a*) he may, at any time after the mortgage-money has become payable, or has been paid, and before his right to redeem the mortgaged property is foreclosed or the property is sold, institute a suit (hereinafter called a suit for redemption) to have the mortgaged property re-transferred to him;

(*b*) he may, at any time after the mortgage-money has become payable and before such suit is barred, tender to the mortgagee or deposit in the principal Civil Court within the local limits of whose ordinary original civil jurisdiction the mortgaged property or any part thereof is situate, to the account of the mortgagee, the whole amount for the time being due on the mortgage.

And the mortgagee has the following rights:—

(*c*) he may take possession of the mortgaged property at or after the time, if any, specified in the mortgage-deed for payment of the mortgage-money, or, if no time is so specified, at any time after the mortgage-money has become payable to him;

(*d*) he may, at any time after he is entitled to take possession of the mortgaged property, and before it is redeemed, institute a suit against the mortgagor (1) for a foreclosure of his right to redeem the property, with or without possession thereof, or (2) for a sale of the property, or (3) for either of such remedies;

(*e*) where the mortgagor deposits money in court under clause (*b*) of this section, the Court shall forthwith cause written notice of the deposit to be served on the mortgagee, and the mortgagee may, on depositing the mortgage-deed (if any) in the same Court and on filing a written statement (verified in manner prescribed by law for the verification of plaints) of the amount due to him under the mortgage, apply for and receive in payment of such amount the money so deposited;

(*f*) if at the date of the mortgage the mortgaged property is insured against fire, the mortgagee, in case of damage to the property by fire, may (in the absence of a contract to the contrary) require the insurance-money to be laid out in reinstating the property.

Rights and duties of mortgagee in possession.

16. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property, he has the following duties and rights:—

(*a*) he shall manage the property as a person of ordinary prudence would manage it if it were his own;

(*b*) he shall collect all rents and other profits arising out of the property;

(*c*) he shall, in the absence of an express contract to the contrary, pay out of the income of the property the Government revenue and all other charges of a public nature due in respect thereof and keep down the interest due on all mortgages of the property prior to his own, and on all mortgages of the property subsequent to his own, of which he has notice;

(*d*) he may spend such money as is necessary for the due management and preservation of the property and add it to the principal money secured, at the same rate of interest;

(*e*) where the property is by its nature insurable, he may insure and keep insured from loss or damage by fire the whole or any part of such property, and add the premiums paid for any such insurance to the principal money secured, at the same rate of interest;

(*f*) he shall keep accurate accounts of all sums received and spent by him as mortgagee;

(*g*) he shall, at any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported.

Receipts of mortgagee in possession.

17. When the mortgagee is in possession of the mortgaged property, unless there is an express contract in writing between the mortgagee and the mortgagor that his net receipts therefrom shall, so long as the mortgagee is in possession thereof, be taken in lieu of interest on the principal sum secured by the mortgage, such receipts shall be debited against him in reduction of the amount (if any) from time to time due to him on account of interest on the principal sum so secured, or, so far as such receipts exceed any interest due, in reduction of such principal sum.

Injunctions to restrain waste.

18. Where the mortgagor remains in possession of the mortgaged property or any part thereof, and commits or threatens to commit waste thereon, the mortgagee may obtain an injunction to stay the waste: provided that the security is insufficient or will be rendered insufficient by the waste complained of. Where the mortgagee takes possession of the mortgaged property or any part thereof and commits or threatens to commit waste thereon, the mortgagor may obtain an injunction to stay the waste.

EXPLANATION.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of houses, exceeds by one-half, the mortgage-money.

Foreclosure and Sale.

Preliminary decree in foreclosure-suit.

19. In a suit for foreclosure or sale, if the plaintiff succeed, the Court shall pass a preliminary decree, ordering—

(*a*) that an account be taken of what will be due to the mortgagee for principal and interest on the mortgage and for his costs of the suit, on the day next hereinafter referred to,

(*b*) that, upon the defendant paying to the plaintiff or into Court the amount so due, on a day within six months from the date of the decree, to be fixed by the Court, the mortgagor shall, if necessary, be put in possession of the mortgaged property by the mortgagee free from all incumbrances created by the mortgagee or any person claiming under him, or, where the mortgagee claims by derived title, by those under whom he claims; but

(*c*) that, if such payment is not made on or before such day, the mortgagor shall be absolutely foreclosed of all right to redeem such property.

Procedure in case of payment of amount due and subsequent costs.

If payment is so made of such amount and of such subsequent costs as are mentioned in section 30, the mortgagor shall (if necessary) be put into possession of the mortgaged property.

Final decree for foreclosure.

If such payment is not so made, the plaintiff shall be at liberty to apply to the Court for a decree for the foreclosure of the said mortgage, and the Court may then pass a decree ordering the defendant to be foreclosed of all right to redeem the mortgaged property, and may, if necessary, deliver possession of the property to the mortgagee; and thereupon the mortgagor's right to redeem and the debt secured by the mortgage shall both be extinguished.

Power to order sale at instance of mortgagee.

20. In any suit by the mortgagee under this chapter, the Court may, at the instance of the plaintiff, decree that in default of the defendant paying to the plaintiff or into court the amount for the time being due on the mortgage and the plaintiff's costs of the suit, the mortgaged property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into court and applied in payment of what is due for the time being to the plaintiff on the mortgage, and that the balance, if any, be paid to the defendant or other persons entitled to receive the same.

Power to decree sale in foreclosure-suit.

21. When the mortgagee sues only for a foreclosure, the Court may, at the instance of the mortgagor, decree that in default of such payment, the mortgaged property or a sufficient part thereof be sold, if (*a*) the Court considers that the mortgagee will not be damnified thereby, and (*b*) the mortgagor furnishes such security, if any, as the Court thinks fit for the payment of the balance due for the time being by him on the mortgage.

Mortgagee not to bid at sale.

22. At any sale under section 20 or section 21, the mortgagee shall not bid for or acquire any interest in the property sold without the leave of the Court, or without submitting to such conditions as the Court may impose.

Recovery of balance due on mortgage.

23. If the nett proceeds of any such sale are insufficient to pay the amount due for the time being on the mortgage, the balance may be recovered in the same suit in the same manner as under a decree for money, or by any other legal process open to the mortgagee.

Power of sale.

24. Power may be expressly conferred by the mortgage-deed on the mortgagee to sell or concur in selling the mortgaged property, or any part thereof, on default made in payment of any principal money or interest, payment of which is secured by the mortgage-deed. But in exercising such a power, the mortgagee shall be subject to the following rules (namely)—

(*a*) he shall use all reasonable diligence to obtain a fair price for the property:

(*b*) no such sale shall be made (1) until after six months' notice in writing of the intended sale has been given to the mortgagor, or (2) after the amount for the time being due on the mortgage has been paid or tendered to the mortgagee by or on behalf of the mortgagor, or (3) pending a suit for redemption of the property, or (4) so as to give the mortgagee any interest in the property.

When a sale has been effected in professed exercise of any such power, the title of the purchaser shall not be liable to be impeached on the ground that no such default had been made or that the rules so prescribed had not been complied with.

Receipts for purchase-money given by the mortgagee exercising such power shall discharge the purchasers therefrom.

The proceeds of every such sale shall be applied as follows:—

first, in defraying the expenses incident to the sale, or properly incurred in any attempted sale under the power;

secondly, in or towards satisfaction of the amount for the time being due on the mortgage; and

thirdly, the surplus (if any) of the said proceeds shall be paid to the mortgagor.

Redemption.

25. In a suit for redemption, if the plaintiff succeed, the Court shall pass a preliminary decree for taking the accounts, as provided by section 19, between the mortgagor and mortgagee, and directing that upon the mortgagor paying within six months from the date of the decree to the mortgagee or into Court what (if anything) is found due to the mortgagee for principal, interest and costs, the mortgagee shall re-convey the mortgaged property to the mortgagor, free from the mortgage, and from all incumbrances created by the mortgagee or any persons claiming under him, and that if such amount is not so paid, the plaintiff's suit shall thenceforth stand dismissed, and that he shall be foreclosed of all right to redeem the mortgaged property.

Preliminary decree in redemption-suit.

26. If the mortgagee fail to perform any of the duties imposed upon him by section 16, he may, when the said accounts are taken, be debited with the loss, if any, occasioned by such failure.

Loss occasioned by mortgagee's default.

27. If on taking the accounts nothing is found due to the mortgagee, or if the amount found due together with such subsequent costs as are mentioned in section 30 is paid according to the decree, the mortgagor shall, if necessary, be put into possession of the property. But if such amount and costs are not so paid, the mortgagor shall be absolutely foreclosed of all right to redeem the property, and the Court shall, if necessary, deliver possession thereof to the mortgagee.

Procedure where nothing due or amount paid.

Procedure when amount due is not paid.

Interest.

28. When the mortgagor and mortgagee have contracted as to the payment of interest on the principal money for the time being due to the mortgagee under the mortgage, interest shall be payable in accordance with such contract: Provided that where the mortgagor has tendered or deposited in Court the whole amount due to the mortgagee, such interest shall cease from the date of the tender or from the time when the mortgagee could take such amount out of Court, as the case may be.

Payment of interest.

Proviso.

Costs.

29. The mortgagee is ordinarily entitled to add to his debt his costs properly incurred of any suit under this chapter. But such costs, or any part thereof, may be disallowed if the mortgagor has tendered to the mortgagee or has deposited in Court the whole amount due to him under the mortgage, and if the mortgagee has unreasonably refused to accept such tender or to take such money out of Court in discharge of his claim, or if he has prevented a mortgagor willing and able to make such tender or deposit from making it by refusing or neglecting to give him proper information as to the state of the accounts required to be kept under section 16.

Costs of mortgagee.

30. In finally adjusting the amount to be paid to a mortgagee in case of a redemption or a sale by the Court under this chapter, the Court shall, unless the conduct of the mortgagee has been such as to disentitle him to costs, add to the principal debt such costs of suit as have been properly incurred by him since the decree for foreclosure, redemption or sale up to the time of actual payment.

Costs of mortgagee subsequent to decree.

Deposit of Title-deeds.

31. The deposit of title-deeds with intent to create a mortgage on the property comprised therein, but without actual transfer of such property, shall be deemed to be only evidence of a contract for a mortgage of the property, and shall entitle the depositee merely to institute a suit for specific performance of such contract.

Effect of deposit of title-deeds.

Sale of property subject to prior mortgage.

32. If any property the sale of which is directed under this chapter is subject to a prior mortgage, the Court may, with the consent of the prior mortgagee, order that the property be sold free from the same, giving to such prior mortgagee the same interest in the proceeds of the sale as he had in the property sold.

Sale of property subject to prior mortgage.

33. Such proceeds shall be brought into Court and applied as follows:

Application of proceeds.

first, in payment of all expenses incident to the sale or properly incurred in any attempted sale;

secondly, if the property has been sold free from any prior mortgage, in payment of whatever is due on account of such mortgage;

thirdly, in payment of all interest due on account of the mortgage in consequence whereof the sale was directed, and of the costs of the suit in which the decree directing the sale was made;

fourthly, in payment of all principal moneys due on account of that mortgage; and

fifthly, the residue (if any) shall be paid to the person proved to be interested in the property sold, or if there be more such persons than one, then to such persons according to their respective interests therein.

34. If a mortgage made to secure the balance of a running account expresses the maximum to be secured thereby, a subsequent mortgage on the same property shall, if made with notice of the prior mortgage, be postponed to the prior mortgage in respect of all advances or debits not exceeding the maximum, though made or allowed with notice of the subsequent mortgage.

Mortgage to secure balance of account.

civil jury is situate.

Illustration.

A gives to his bankers, B & Co., a charge on Sultánpur property to secure the balance of his account with them to the extent of Rs. 10,000. A then gives to C a charge on Sultánpur property to secure Rs. 10,000; and C gives notice thereof to B & Co. At the date of the second charge, the balance due to B & Co. does not exceed Rs. 5,000. B & Co. subsequently advance to A sums making the balance of the account against him exceed the sum of Rs. 10,000. B & Co. are entitled, to the extent of Rs. 10,000, to priority over C.

35. Any person having an interest in mortgaged immoveable property may, at any time before a sale of such property has taken place under this chapter, tender to the next prior mortgagee the amount due to him on account of his mortgage. Such mortgagee is bound to accept such tender and to give a receipt for the sum due, and on such receipt being registered, his interest in the property in respect of the mortgage shall absolutely cease.

Right to pay off mortgagee in order to prevent sale.

36. In such case, where the person making the tender has, subject to the mortgage, the absolute ownership of the property, the mortgage shall cease to exist and the property shall vest in the person making such tender.

Effect of such payment by person having whole interest in property charged.

37. If the tender be made by a person not having, subject to the mortgage, the absolute ownership of the property, he shall acquire in respect of the property all the rights and powers of the mortgagee to whom he has made such tender.

Effect of payment by person only partially interested.

38. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security. And no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his security for such subsequent advance.

Tacking abolished.

39. If the owner of two or more properties creates separate mortgages on them by separate assurances, each mortgage may be dealt with irrespectively of the other, though the mortgages are created in favour of the same mortgagee.

Redemption of one of two properties separately mortgaged.

Illustration.

A, the owner of farms Z and Y, mortgages Z to B for Rs. 1,000. A afterwards mortgages Y to B for Rs. 1,000, making no stipulation as to any additional charge on Z. A may institute a suit for the redemption of the mortgage on Z alone.

40. If property subject to a mortgage, or the right to receive mortgage-money, be transferred to a third person, the transferee has all the rights and powers of his transferor, under the mortgage, and is subject to the liabilities existing between his transferor and the mortgagor or mortgagee, as the case may be.

Rights and powers of transferee of mortgage-debt or mortgaged property.

Where such a transfer is made for the purpose of securing the payment of money, the original mortgage-debt, if recovered by either the transferor or the transferee, is applicable, *first*, in payment of the costs of such recovery, *secondly*, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor.

41. If by any assurance other than a mortgage-deed, or by any will, or under the provisions of this or any other Act, or by operation of law, certain property of one person is made security for the payment of certain money to another, all the provisions hereinbefore applied to a mortgagor shall apply to the owner of such property, and all the provisions hereinbefore applied to a mortgagee shall apply to the owner of such money.

Charge made by assurance or will.

CHAPTER V.

OF LEASES OF IMMOVEABLE PROPERTY.

42. A lease may be made in the form in the second schedule hereto annexed, or in any other form which expresses an intention of the parties to give and take, for rent or a fine, possession of, or profits derived from, immoveable property, for a time shorter in duration than the lessor's interest therein.

Form of written lease.

43. Where the time limited by a lease is expressed as commencing from a particular day, in computing that time such day shall be excluded.

Exclusion of day on which term commences.

Where the time so limited is a year or a number of years, in the absence of any express agreement to the contrary, the lease shall last during the whole anniversary of the day on which such time commences.

Duration of term.

Where the time so limited is expressed to be determinable before its expiration, and there is no express agreement as to the party having the option of determining it, the lessee shall have such option.

Option to determine lease.

44. Unless a contrary intention appears from the lease, the lessor and the lessee, as against one another, respectively possess the rights and are subject to the liabilities mentioned in the twenty-two rules next following, or such of them as are applicable to the property leased:—

Rights and liabilities of lessor and lessee.

(*a*). During the continuance of the lease, the lessee is entitled to the enjoyment of all lights, waters, water-courses, drains, ways and other easements enjoyed as incident to the property leased at the time when the lease was made.

(*b*). The lessor is bound to put the lessee in possession of the property leased, and to deliver it to him in a condition reasonably fit for the purpose for which both parties contemplate that the lessee is to use it.

(*c*). If the lessee is, by reason of the invalidity of the lessor's title, or by any act or default of the lessor, or of any person claiming under him, or of any person claiming by a superior title to his, disturbed in the peaceable enjoyment of the property leased, the lessee is entitled to compensation from the lessor for any loss thereby caused, and may also obtain from any Court of competent jurisdiction a decree for the rescission of the lease.

(*d*). If the lessee is, by reason of the invalidity of the lessor's title, deprived of any substantial part of the property leased, or of anything essential to his enjoyment thereof, he is entitled to compensation from the lessor for any loss thereby caused, and may also obtain from any Court of competent jurisdiction a decree for the rescission of the lease.

(*e*). In the absence of fraud or misrepresentation, the lessor is not answerable for any latent defect in the thing leased.

(*f*). The lessor is bound to do all things necessary for maintaining the roof, walls, beams, floors, stairs and drains of any house or other building comprised in the lease, and may for that purpose enter such building at all reasonable times.

(*g*). In all other respects the lessee is bound to keep, and at the end of the lease to restore, the property leased in as good condition as it was in at the time when he was put in possession, subject only to reasonable wear and tear.

(*h*). Deteriorations arising from want of painting or plastering, or from breaking of glass, are not to be considered as wear and tear, but shall be made good by the lessee.

(*i*). If by fire, tempest or flood, or violence of an army or of a mob, or other superior force, any part of the property leased be wholly destroyed or rendered substantially unfit for the purposes for which it was let, the obligation of the lessor as to that part shall cease unless he consents to reinstate the part so destroyed or rendered unfit; but in case of refusal or neglect to reinstate the same, the lessee shall be entitled to be discharged from his lease.

If the injury be occasioned by the wrongful act of either party, such party shall not be entitled to avail himself of the benefit of this provision.

(*j*). In case any rent remains unpaid at the end of a month from the time when it was payable and demanded, or in case within a reasonable time after notice default is made by the lessee in the performance of any of his other obligations under the lease, the lessor may institute a suit for a decree for the rescission of the lease and for possession of the property leased, unless the lessee shall, within a time to be specified by the Court, pay such arrears and perform such obligations, and also pay all costs and expenses sustained by the lessor through the lessee's default.

(*k*). In case the lease is rescinded for the default of the lessee, he is bound to pay the rent up to the time of such rescission, and also to make compensation for any other loss resulting from his default.

(*l*). If the lessor neglects to make, within a reasonable time after notice, repairs which he ought to make, the lessee may make the same himself, and deduct the expense of such repairs from the rent, or otherwise recover it from the lessor.

(*m*). If the lessor neglects to make any payment which he is bound to make, and which if not made is recoverable against the property leased, the lessee may make such payment himself, and deduct it from his rent, or otherwise recover it from the lessor.

(*n*). Every lessee who receives notice of any proceeding to recover the property leased to him or any part thereof, is bound to give notice thereof to the lessor with reasonable diligence; and, in default of so doing, he is liable to make compensa the lessor for any loss or expenses occasio such omission.

(*o*). The lessee is bound to give notice to the lessor, within a reasonable time, of any encroachment made upon, or any interference with the lessor's rights concerning, the property leased; and, in default of so doing, he is liable to make compensation to the lessor for any loss or expenses occasioned by such omission.

(*p*). The lessee may use the soil and its products for all purposes of enjoyment as a reasonable owner would use them: but he may not destroy them wastefully, nor remove them after the expiration of the lease.

(*q*). No lessee of immoveable property who erects thereon any building, engine or machinery for agricultural purposes shall remove the same without first giving to the lessor or his agent one month's previous notice in writing of his intention so to do, and thereupon the lessor or his agent may elect to purchase the thing so proposed to be removed, and the lessee's right to remove the same shall thereby cease, and the same shall belong to the lessor, and the value thereof shall in case of dispute be ascertained and determined by two referees, one to be chosen by each party, or by an umpire to be named by such referees, and shall be paid or allowed in account by the lessor.

(*r*). Subject to the provisions of clause (*g*) and clause (*q*), the lessee has a right to remove at any time during his possession of the property leased, or within a reasonable time afterwards, all things not being products of the soil which he has affixed to the soil.

(*s*). When a lease of land determines in consequence of an uncertain event over which the lessee has no control, the lessee is entitled to all the crops growing upon the land for the season current when the lease determines, and to free ingress, egress and regress to reap and carry them.

(*t*). Upon the death of the lessor or of the lessee, his legal representative shall have all the rights and be subject to all liabilities of the lessor or lessee whom he represents.

(*u*). If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee shall possess all the rights and, if the lessee so elects, be subject to all the liabilities of the lessor as to the property or part transferred so long as he is the owner of it; but the lessor shall not by reason only of such transfer cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him: Provided that if the lessee pay rent to the lessor without having reason to believe that such transfer has been made, he shall not be liable to pay such rent over again to the transferee.

Where only a part of the property leased is transferred by the lessor, he may determine what proportion of the rent reserved by the lease is payable in respect of the part so transferred.

(*v*). The lessee has a right to transfer his lease. The transferee may again transfer it. The lessee shall not, by reason of such transfer, cease to be subject to any of the liabilities attaching to the lease, unless the lessor elects to treat the transferee as the person subject to such liabilities. Subject

civil jurisdiction, each successive transferee, so long as he is situated to the property leased, possesses all the rights, and is subject to all the liabilities, of the lessee.

Saving of right to distrain.

45. Nothing in this Act shall affect any right to distrain which a lessor may exercise under any local law for the time being in force.

Duration of certain leases in absence of written agreement or local usage.

46. In the absence of any written agreement and of any local law or usage to the contrary, a lease of property for purposes of cultivation shall be a lease from year to year terminable by six months' notice ending with the end of a year of the tenancy; and a lease of property for any other purpose shall be a lease from month to month, terminable by fifteen days' notice ending with the end of a month of the tenancy.

Every notice under this section must be in writing signed by or on behalf of the party giving it and served on the party who is intended to be bound by it.

Effect of holding over.

47. If a lessee of property remains in possession thereof after the expiration of the lease, and the lessor accepts rent from him, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year or from month to month, according to the purpose for which the property is leased, as specified in the last preceding section.

Illustrations.

(*a*). A lets a house to B for five years. B sub-lets the house to C at a monthly rent of Rs. 100. The five years expire, but C continues in possession of the house and pays the rent to A. C's lease is renewed from month to month.

(*b*). A lets a farm to B for the life of C. C dies, but B continues in possession with A's assent. B's lease is renewed from year to year.

CHAPTER VI.

OF EXCHANGES.

"Exchange" defined.

48. Exchange is a contract by which the parties mutually give, or agree to give, one thing for another, neither thing or both things being money only.

Rights and obligations of parties.

Each party has the rights and obligations of a seller as to that which he gives and the rights and obligations of a buyer as to that which he takes.

Exchange of money.

On an exchange of money, each party thereby warrants the genuineness of the money given by him.

CHAPTER VII.

OF SETTLEMENTS.

"Settlement" defined.

49. "Settlement" means in this chapter any disposition of property—

(*a*) which is not testamentary, and is not founded on any valuable consideration, or

(*b*) which is made in consideration of marriage, or

(*c*) which is made for the purpose of dividing any of the settlor among his family or those whom he desires to provide,

but does not include a gift made by a Hindú Muhammadan or Buddhist.

Consideration not necessary to make settlement binding.

50. In order that a settlement should be binding, it is not necessary that it should be made for a consideration.

Voidability of settlement made in fraud of creditors.

51. A settlement made for the purpose of depriving present or future creditors or other persons having demands against the settlor, of their demands on him, is voidable at the option of such creditors or other persons, and so far as regards the demands of such creditors or other persons, but not as against a person who, having no knowledge of the purpose for which the settlement was made, has contracted for or acquired an interest therein by marriage or for other valuable consideration, nor as against claimants under such persons. Such settlement is nevertheless binding on the settlor and on all persons claiming under him.

EXPLANATION.—Where there is no positive evidence of fraud, the intent to deprive creditors and other persons of their demands on the settlor may be inferred from

(*a*) the indebtedness of the settlor at the date of the settlement,

(*b*) want of consideration for the settlement, and

(*c*) any other circumstance indicative of fraud.

Condition restraining alienation of interest.

52. A condition or limitation in a settlement or will restraining any person from parting with or disposing of his interest, is void.

Condition making interest determinable on insolvency or alienation.

53. A condition or limitation contained in a settlement or will making an interest thereby reserved or given to or in trust for any person to cease on his becoming insolvent, or endeavouring to transfer or dispose of the same, is void.

Vesting of gift in general terms.

54. If by a settlement property be given to a person then living in general terms, without indicating the time when it is to be paid or delivered, such person has a vested interest therein from the day of the execution of the settlement, and if he dies without having received it, it shall (subject to any legal disposition thereof which he may have made) pass to his legal representatives.

Vesting in interest of gift to unborn person not entitled to possession immediately on birth.

55. Where by the terms of a settlement a thing is given to a person not in existence, but he is not entitled to possession of it immediately upon his birth, a right to receive it at the proper time shall, unless a contrary intention appears by the settlement, become vested in such person upon his birth, and shall (subject to any legal disposition thereof which he may have made) pass to his legal representative if he dies before that time, and without having received it. And in such cases it is from his birth said to be vested in interest.

Application of sections of Act X of 1865 to gifts contained in settlements.

56. The provisions of the Indian Succession Act, 1865, sections 100 to 104, both inclusive, 107 and 108, 111 to 127, both inclusive, and 167, shall be applicable, so far as the nature of the case will admit, to gifts contained in settlements.

57. Whenever a person becomes entitled in possession by virtue of a settlement to money or any other property yielding income, he shall be entitled to receive the interest or income thereof from that time.

Right to income of property coming into possession under settlement.

CHAPTER VIII.

OF GIFTS FOR RELIGIOUS AND CHARITABLE PURPOSES.

58. No person having a nephew or niece, or any nearer relative, shall have power to give any property to religious or charitable uses, by any instrument which is required to be registered, unless such instrument be executed not less than twelve months before his death, and duly registered.

Gift to charitable uses by person having certain relatives.

59. Subject to the provisions of the last preceding section, property may be assured in perpetuity for the benefit of the public in the advancement of religion, knowledge, commerce, health, safety, or any other object beneficial to mankind. But no such assurance shall take effect until it has been sanctioned by some public authority to be designated by the Local Government by notification in the official Gazette.

Assurance of property in perpetuity for use of any community or institution.

The grant or refusal of such sanction may be notified by an entry in the book in which the assurance is registered, and the registering officer shall make such entry on receiving from the public authority aforesaid a written order in this behalf.

If no such order is made within two years next after the time when the property becomes applicable for the benefit of the public, it shall be deemed that sanction has been granted.

If such sanction is refused, the property shall devolve as if no such assurance had been made.

CHAPTER IX.

OF APPORTIONMENT.

60. All rents, annuities, pensions, dividends and other periodical payments shall, upon the determination of such payments by the death of the recipient or otherwise, be apportionable as if they had been made to accrue due from day to day, but to be payable on the days appointed for the payment thereof.

Apportionment of rents and other periodical payments.

Nothing in this section shall affect any express provision in any instrument binding on the recipient.

CHAPTER X.

OF CERTAIN RIGHTS AND LIABILITIES OF LIMITED OWNERS.

61. A person having a limited interest in any immoveable property is not entitled to do or omit any act the doing or omitting of which is destructive or permanently injurious to such property.

Rights and obligations of persons having limited interest in property.

EXPLANATION.—No act done in the reasonable use and enjoyment of property is destructive or injurious within the meaning of this section, though it may exhaust the substance of the property.

Illustrations.

(*a*). A Hindú widow is in possession as such of land protected from floods and rendered cultivable by a dyke. She is not entitled to cut the dyke and turn the land into a lake.

(*b*). A is tenant for life of land on which a dwelling-house stands. He is not entitled to pull down the house. Nor must he suffer it to fall for want of necessary repairs.

(*c*). A is tenant for life of land in which coal lies. He is entitled to work and use the coal.

(*d*). A is tenant for life of land planted with trees. He is entitled to cut the trees at maturity, but is not entitled to cut them when immature, except for the purpose of thinning out or otherwise benefiting the plantation.

Save as aforesaid, such person or his legal representative has the same right as a lessee to remove during the continuance of such interest, or within a reasonable time afterwards, all things which he has affixed to the soil in which he had such limited interest, and all crops growing upon the land for the season current when such limited interest determines.

62. A person having a limited interest in possession in any property, is bound to discharge all periodical payments due on account of any mortgage thereon taking effect during the continuance of his interest in priority to such interest, and all taxes and other public periodical charges to which such property is liable.

Obligation of limited owner in possession of property mortgaged.

63. Every advantage or increase of value accruing (accidentally or through the exertions of any one having a limited interest) to any property in which successive interests exist, belongs to all the persons having any interest in the property in the same shares and manner as they are entitled to the property.

Right to increase of value to property in which there are successive interests.

EXPLANATION.—A person having a mortgage on property has not thereby an interest within the meaning of this section.

64. Any person claiming any immoveable property after the death of any minor, married woman, or other person, and having reason to believe that such minor, married woman or other person is dead, and that his or her death is concealed by his or her guardian, husband or any other person, may once a year move the High Court to order the person concealing or suspected to conceal such person to produce him or her at such time and place, and before such persons (if any), as the Court may direct. And the High Court, if it think fit, shall make such order, and in case of disobedience thereto, the person so claiming the property may enter thereon and receive the profits thereof as if the person so concealed or suspected to be concealed were dead.

Discovery of death of tenant for life.

65. Nothing in this chapter applies to lessees.

Saving of lessees.

CHAPTER XI.

OF THE DISCRETION OF THE COURTS TO DEAL WITH SETTLED LAND.

66. If any person having, under a settlement or will, a limited interest in possession in any immoveable property, apply under this section to the High Court or District Court within the local limits of whose ordinary original civil jurisdiction such property or any part thereof is situate, the Court may, if it deem it just and expedient to do so,—

Powers exerciseable by Court on application of person interested in possession in settled immoveable property.

(*a*) make such leases of the whole or any part of the property for such terms of years, for such rents, with such powers, and with such conditions, reservations and exceptions as the Court thinks fit;

(*b*) make such sales of the whole or any part of the property, for such sums, payable either at once or periodically, with such powers, and with such conditions, reservations and exceptions as the Court thinks fit;

(*c*) appropriate any part of the property for the formation of streets, roads, gardens or other open spaces, tanks, sewers, drains or water-courses, and authorize the erection of buildings and works thereon;

and generally deal with the property in any way the Court may think just and beneficial to the persons interested therein.

67. Every such application shall be in writing, and notice thereof shall be served through the Court on all trustees under the settlement or will and on any other persons who in the opinion of the Court ought to be so served, and shall be published in such newspapers as the Court may direct.

Service of notice and advertisement of application.

68. The Court may permit any person, whether interested in the property or not, to appear and be heard in opposition to or in support of any such application on such terms as to costs or otherwise as it thinks fit.

Appearance to oppose or support application.

69. The Court may order the costs of all or any parties to any application under this section to be paid out of any principal money receivable on account of any dealing with the property which is the subject of the application or to be a charge on such property or on any other property belonging to the same owners.

Costs of application.

70. Every lease made under section 66 shall take effect in possession; and on every such lease shall be reserved the best rent that can be reasonably obtained, to be made payable half-yearly or oftener without taking any fine or other benefit in the nature of a fine.

Leases under section 66.

71. All or any part of the proceeds of any lease, sale or disposition under section 66 may, if the Court think fit, be paid into Court.

Payment into Court of money receivable under section 66.

72. The Court shall declare what parts of such proceeds so received shall be considered as income, and may direct the same to be paid to the person for the time being entitled in possession to the property dealt with; and the residue of such money shall be applied as the Court shall direct in one or more of the manners following:—

Power to direct payment of income to person entitled.

Application of residue.

(*a*) the payment of the amount due in respect of any charge on the property dealt with;

(*b*) the purchase of other property or the investment in securities for the benefit of the persons interested in the property dealt with;

(*c*) the payment to any person becoming absolutely entitled to the property dealt with;

EXPLANATION—In this section the term "securities" means—

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

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

(*f*) stock or debentures of, or shares in, railway or other companies, the interest whereon has been guaranteed by the Government of India; and

(*g*) 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.

CHAPTER XII.

OF POWERS.

73. Where a person is authorized to determine the disposition of property otherwise than by virtue of his ownership, he is said to have power to appoint such property.

Power to appoint, defined.

The person who gives the power is called the donor, the person to whom the power is given is called the donee, and the persons for whose benefit the power is to be exercised are called the objects of the power. A person to whom any property is appointed is called an appointee.

Donor, donee, objects, appointee, defined.

Illustration.

A grants land to B for life, with remainder to such of B's children as B shall appoint. B appoints to C and D, two of his children, in equal shares. A is the donor of the power, B the donee, B's children the objects, and C and D the appointees.

A power authorising the donee to appoint to whomsoever and for whatsoever interest he pleases, is called a general power.

General power.

A power restricted in respect either of its objects or the interests that may be conferred under it, is called a special power.

Special power.

Rules as to all powers.

74. Where a power is vested in several donees, all who are living must unite in its execution; but in case any one or more of them die during the continuance of the power, it may be exercised by the survivors or the survivor, unless a contrary intention appears by the instrument creating the power.

Exercise of power vested in several donees.

75. The donor may direct that the power shall be exercised by will only or by non-testamentary instrument only.

Modes in which powers may be executed.

If he directs that the power shall be exercised by will only, it must be exercised by will duly executed according to the provisions of the Indian Succession Act, or according to such other law as at the time of the execution of the power may be applicable to a will executed by the donee.

If he directs that the power shall be exercised by non-testamentary instrument only, it must be exercised by an instrument executed as an assurance and registered.

If he imposes no such restriction on the exercise of the power, it may be exercised either by such will or by such instrument as lastly hereinbefore mentioned.

When the power is not properly exercised, no Court shall in any case compel the person in possession of the property to which the power relates to deliver the property as if the power had been properly exercised or shall otherwise aid the defective execution.

Jurisdiction to aid defective executions abolished.

76. All appointments made in the manner directed by section 75 shall be deemed to be executed and attested in proper form, notwithstanding that some other mode of execution or attestation has been prescribed by the donor.

Validity of forms hereby prescribed.

77. Where a power is to be exercised with the consent of several persons, all who are living must concur in the consent, but in case any one or more of them die during the continuance of the power, the consent of the survivors or the survivor is sufficient, unless a contrary intention appears by the instrument creating the power.

Concurrence where power is to be exercised with consent of several persons.

Consent to the exercise of a power must be given by an instrument executed as an assurance and registered.

Consent to the exercise of a power need not be given by the instrument by which the power is exercised, but if it is given by a different instrument, such instrument must be executed at a time not later than the time at which the donee of the power executes the instrument by which he exercises the power.

78. If a person disposes of property in such manner as is authorized by a power vested in him, such disposition shall take effect out of the power, notwithstanding that the power is not mentioned or referred to in the instrument of disposition.

Recital of power not necessary.

Illustration.

Land is settled upon A for life with a special power to charge, by a non-testamentary instrument, portions in favour of his children. Subsequently a general power to dispose of the land by any instrument is vested in A. He executes an assurance, by which he directs that a sum of money shall be raised out of the land and settled on his son B for life, with remainder to B.'s wife and children. Such an appointment cannot take effect under the special power, but may be treated as a valid exercise of the general power.

79. The donee of a power need not exercise it entirely and at once by a single instrument, but he may from time to time exercise any unexhausted part thereof at his discretion.

Power exerciseable by several instruments executed at different times.

If the donee has purported to exercise his power in such a manner that his appointment is void, the power is, to that extent, unexhausted.

80. Where a power given by any instrument is void in its creation, no disposition or gift made by the same instrument shall be deemed void merely because it is intended to take effect after the interests to be appointed under the power or in default of any such appointment.

Disposition intended to take effect after interests appointed under void power.

Illustration.

A marriage-settlement provides that the settled property shall belong to the husband and wife successively for their lives; that after the death of the survivor of them, it shall go to such of the children of the marriage and in such shares as the husband and wife shall jointly appoint; the interest of each such child to become vested in him on his attaining the age of twenty-five years; and that in the event of there being no child of the marriage who shall attain that age, or in default of appointment, the property shall belong to the husband or his legal representative.

Here the power to appoint the property is, under section 56, void in its creation; but the ultimate interest given to the husband takes effect.

General Powers.

81. If the donor confers on the donee a general power, the donee shall, so far as regards his power of disposition, his creditors and all persons who contract with him for valuable consideration to obtain any interest in the property comprised in the power, be deemed to be the absolute owner of such property for such interest therein as the donor could dispose of.

Effect of general power.

This rule is to take effect notwithstanding that the donor has prescribed some particular method for executing the power.

Illustrations.

A, the absolute owner of land, settles it on B for life, with remainder to such purposes as B—

shall appoint, or
shall by deed appoint, or
shall by will appoint, or
shall by deed or will appoint,

and, in case B dies without making any such appointment, on C absolutely.

If B—

grants the land by assurance, or
bequeathes it, or
contracts to sell it, or
incurs debt,

the property is liable, in the hands of either B or C, as the case may be, to the claims of B.'s grantee, legatee, purchaser or creditors, as the case may be.

If B dies having made no disposition of the property, C is entitled to it, subject to any claims which B's creditors may establish against it.

82. If the donor confers on the donee a general power, and makes no disposition of the property in the event of non-appointment, the donee shall be considered as the absolute owner of the property for such interest therein as the donor could dispose of.

Effect of general power without disposition of property in case of non-appointment.

Illustration.

A, the absolute owner of property, settles it on B for life with remainder to such purposes as B shall appoint, and makes no gift over in default of appointment. B dies without making any disposition of the property. The property vests in the representatives of B, and does not revert to A or his representatives.

Special Powers.

83. If the donee has only a special power, he cannot confer any interest in the property comprised therein which could not have been conferred by the donor at the time of the creation of the power.

Interest conferrible by donee of special power.

Illustrations.

(*a*). A settles a fund upon B for life with remainder to such purposes as B shall appoint. After the settlement is made C is born. B then appoints the fund to C for life with remainder to C's children absolutely. The appointment is valid, though C has no children at the time.

(*b*). A settles a fund upon B for life with remainder to his children as he shall appoint. At the date of the settlement B has no child, but afterwards has a son C. B then appoints to C for his life, with remainder to his children. Such interest could not have been conferred by A, and B's appointment is void.

84. Where the donee of a special power purports, in exercise of the power, to appoint to objects authorized by the power and also to objects not so authorized, the appointment in favour of the authorized objects shall take effect if their interests can be separated from those of the unauthorized objects.

Effect of appointment to objects, some authorized and others unauthorized.

Illustration.

Property is settled on A for life, and after his death on such of his children as he shall appoint, and in default of appointment to all A's children equally. A appoints that the property shall go after his death to his widow for her life, and after her death to two of his sons, C and D, in equal shares. There are five children of A. The appointment in favour of A's widow is invalid, and the rents and profits of the property during her life will go to all the five children in equal shares, but after her death to C and D absolutely.

85. Where the donee of a special power purports in exercise of the power to confer a larger interest than is authorized thereby, such appointment shall, if the appointee so elect, be void only for the excess, and good for the residue, if they can be separated.

Appointment in excess of power when voidable at election of appointee.

Illustrations.

(*a*). A has a life-interest in Rámnagar, with power to grant leases thereof for 30 years. A makes a lease of Rámnagar for 50 years. Such lease is good for 30 years only.

(*b*). A having a life-interest in Rámnagar and Sultánpur, with power to grant leases of Rámnagar for 21 years, grants a lease comprising both Rámnagar and Sultánpur for 21 years. After A's death the lessee may, if he thinks fit, elect to retain the lease as a lease of Rámnagar only, till the end of the 21 years.

86. Where, by an appointment under a special power, interests authorized and also interests unauthorized are created, and the interests authorized cannot be distinguished from those unauthorized, the whole is void.

Invalidity of appointment creating authorized and unauthorized interests not separable.

Illustrations.

(*a*). A fund is settled on A during his life, and after his death on his children as he shall appoint. A appoints the annual income for the benefit of his son B and his wife and children, in such manner as trustees shall think fit. The appointment is wholly void.

(*b*). Under a similar settlement, A having legitimate children by B, his wife, and others by C and D, his concubines, appoints the property to be divided among his children by B, C and D, the shares of the sons to be double those of the daughters. Here the interests authorized and unauthorized cannot be distinguished, and the appointment is wholly void.

87. When a person exercising a special power annexes to the gift a condition or qualification which is not authorized by the power, the gift is good and the condition or qualification only is void.

Appointment with unauthorized condition.

Illustrations.

(*a*). A, having a power to appoint a fund among his children, gives a part of it to his son B on condition that B shall settle it on B's children. The condition is void, and the gift is absolute.

(*b*). A, having a power to appoint a fund to a limited class of objects of whom B is one, appoints it to B, adding a condition that B shall release a debt owing to him by A, and also pay Rs, 1,000 to C. The appointment is good; but the condition is void.

88. If a beneficial interest in immoveable property and also a power to let it are given to the same person and he grants his interest in the property, he may enter into a contract not to exercise his power.

Contract not to exercise power of leasing.

89. Save as provided by section 88, an agreement or undertaking not to exercise a power which is given for the benefit of persons other than the donee is void.

Invalidity of agreement not to exercise power.

90. Where a power given for the benefit of persons other than the donee is exercised with a view to the benefit, direct or indirect, of the donee, in any mode not intended by the donor, the appointment is void.

Frauds on powers.

Illustrations.

(*a*). A, having power to appoint a fund in favour of any of her children, appoints the whole fund absolutely to one child, who has previously entered into an agreement with her to give one-half of the fund to A's husband absolutely. The appointment is void.

(*b*). A, having power to appoint a fund in favour of any of his children, appoints a portion of the fund to his son C, a minor, whom he knows to be suffering from a mortal disease; A being the person entitled to C's property in the event of his death. The appointment is void.

(*c*). A, having power to grant leases of certain settled land, exercises the power in favour of B in consideration of Rs. 1,000 paid to A by B as a fine or premium. The lease is void, and A holds the Rs. 1,000 in trust for the persons interested under the settlement.

91. If the instrument by which a power of appointment in favour of specified objects is created does not provide for the event of no appointment being made, the property belongs (subject to any appointment that may have been made) in equal shares to the said objects.

Right to property in default of appointment.

Illustration.

A settles property on B for life with remainder to B's children as he shall appoint, and makes no disposition in default of appointment. B has two children, C and D, and appoints Rs. 1,000, part of the property, to C. Then C dies. Then B dies without making any further appointment. After paying Rs. 1,000 to C or his representative, the residue of the property is divisible in equal moieties between D and the representative of C.

92. Under a power of appointment in favour of several objects, an appointment of the whole property to one or more of such objects exclusively of the others is valid:

Appointment of whole property to some only of several objects in favour of which power is given.

Provided that, where the assurance creating the power declares the minimum amount or value of the share from which no object of the power is to be excluded, the appointment shall be invalid so far as it excludes any such object from any such share, and no farther.

CHAPTER XIII.

OF PROPERTY HELD BY SEVERAL PERSONS.

93. Where property is held by more persons than one, the share of any of them having at the time of his death a beneficial heritable interest therein shall

Right to property by survivorship created only by express words.

become vested in his legal representative, unless the property is held under an instrument which expressly provides that on the death of one his share shall accrue to the survivors.

Nothing in this section applies to property belonging to an undivided Hindú family.

Illustration.

A and B jointly advance money on mortgage. A dies intestate. The money advanced by A belongs to his legal representative.

Partition of immoveable property.

94. When immoveable property is held in possession by joint owners, any one of them may institute a suit in the proper Court, and such Court may direct a partition of the property to be made among the joint owners, and for the purposes of partition may, in order to equalise the value of the shares, direct any money to be paid by one to another or to be charged on one share in favour of another.

Power to direct sale and to distribute proceeds.

If it appear to the Court that a sale of the property and a distribution of the proceeds would be more beneficial for the persons interested than a division of the property between them, the Court may, on the application of any such person, direct a sale of the property.

Power to allow person interested to bid for property sold for purpose of partition.

95. On any sale under the last preceding section, the Court may, if it think fit, allow any of the persons interested in the property to bid at the sale, on such terms as to setting-off or accounting for the purchase-money or any part thereof, or as to any other matters, as to the Court seems reasonable.

Payment into Court.

96. All sums of money paid under the two last preceding sections may if the Court think fit, be paid into Court.

Saving of laws relating to partition of revenue-paying estates.

97. Nothing in this chapter shall affect any local law for the time being in force relating to the partition of estates paying revenue to Government.

Waste by one joint-owner.

98. When one joint-owner of immoveable property commits, or threatens to commit, waste to the same without the consent of the other joint owner, that other may institute a suit to recover compensation for the injury caused to him by the waste or to obtain an injunction to stay the waste, as the case may require.

CHAPTER XIV.

OF ASSIGNMENTS OF THINGS IN ACTION.

Sale, &c., of things in action.

99. No sale or disposition of, or charge on, any debt, and no sale or disposition of, or charge on, any beneficial interest in moveable property, shall have any operation against the debtor or against the person in whom the property is vested, until notice of the sale, disposition or charge is given to him, unless he is a party to such sale, disposition or charge; and every dealing by such debtor or person, not being a party to, and not having received notice of, a sale, disposition or charge, with the debt owing by him, or with the property vested in him, shall be valid as against such sale, disposition or charge.

Illustrations.

(*a*). A owes money to B, who assigns the debt to C. B then demands the debt from A, who having no notice of the assignment, pays B. The payment is valid, and C cannot sue A for the debt.

(*b*). A has jewels deposited with B, a jeweller. A mortgages them to C. A then executes an assignment of them to D, who takes his assignment to B and gets the jewels from him before he, B, has received any notice of C's mortgage. B is justified in handing the jewels to D, and C has no remedy against D.

Notice to be in writing signed.

100. Every such notice must be in writing signed by the person making such sale, disposition or charge, or by his agent duly authorized in this behalf.

Liability of assignee of thing in action.

101. The person to whom a debt or charge is assigned shall take it subject to all the liabilities to which the assignor was subject in respect thereof at the date of the assignment.

Illustration.

(*a*). A debenture is issued in fraud of a public company to A. A sells and transfers the debenture to B, who has no notice of the fraud. The debenture is invalid in the hands of B.

Saving of negotiable instruments.

102. Nothing in this chapter applies to debts secured by negotiable instruments.

THE FIRST SCHEDULE.

(*a*). STATUTES.

Year and chapter.	Subject.	Extent of repeal.
13 Ed. I, c. 22	Waste	The whole.
31 Hen. VIII, c. 1 ...	Partition	The whole.
32 Hen. VIII, c. 62 ...	Do.	The whole.
13 Eliz., c. 5...	Fraudulent Conveyances	The whole.
27 Eliz., c. 4...	Do.	The whole.
6 Anne, c. 72	Discovery of deaths of tenants for life.	The whole.

(*b*). ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
XXIV of 1841	Illusory appointments, &c.	So far as regards illusory appointments.
X of 1865 ...	Succession ...	Illustration (*g*) to sec. 107.
IV of 1872 ...	Panjáb Laws Act ...	So far as it relates to Bengal Regulation I of 1798 and conditional sales made after this Act comes into force.
XX of 1875 ...	Central Provinces Laws Act.	So far as it relates to Bengal Regulation XVII of 1806

(*b*). ACTS OF THE GOVERNOR GENERAL IN COUNCIL,—*concluded.*

Number and year.	Subject.	Extent of repeal.
		and mortgages and conditional sales made after this Act comes into force.
XVIII of 1876	Oudh Laws Act ...	So far as it relates to Bengal Regulation XVII of 1806 and mortgages and pledges made after this Act comes into force.

(*c*). REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bengal Regulation I of 1798.	Conditional sales ...	The whole Regulation except as to conditional sales made before this Act comes into force.
Bengal Regulation XVII of 1806.	Redemption ...	The whole Regulation except as to mortgages and conditional sales made before this Act comes into force.
Bombay Regulation V of 1827.	Mortgagees in possession	Section 15 except as to mortgages and pledges made before this Act comes into force.

THE SECOND SCHEDULE.

TRANSFER ON SALE.

(*See section* 8).

This assurance is made the day of 18 , between *A B*, of , and *C D*, of . In consideration of rupees paid to me, *A B*, by *C D*, the receipt whereof I do hereby acknowledge, I, *A B*, do hereby grant all that (*description of property*) unto *C D*. In witness whereof, I have signed these presents.

(*A B*)

CHARGE.

(*a*). This assurance is made the day of 18 , between *A B*, of , and *C D*, of . I, *A B*, do hereby charge Sultánpur to *C D*, with five thousand rupees and interest at the rate of per cent. per , payable on the day of . In witness, &c.

(*b*). This assurance is made the day of 18 between *A B*, of , and *C D*, of . I, *A B*, do hereby charge Sultánpur to *C D*, with the sum which shall be due to him on the balance of my account, not exceeding rupees, together with interest thereupon at the rate of per cent. per . In witness, &c.

LEASE.

(*See section* 42).

This assurance is made the day of , between *A B*, of , and *C D*, of . I, *A B*, do hereby lease to *C D* all that (*description of property*), to hold the same from the day of for the term of at the rent of rupees, payable by equal payments on the day of and the day of in each year. In witness whereof we have, &c.

STATEMENT OF OBJECTS AND REASONS.

This Bill embodies the bulk of the rules submitted in the sixth report of the late Indian Law Commission. One of its chief objects is to bring the rules which regulate the transmission of property between living persons into harmony with the rules affecting its devolution upon death, and thus to furnish the necessary complement of the work commenced in framing the law of succession, now Act X of 1865. Another is to render more simple and efficient the law relating to mortgages and conditional sales. The expediency of legislation on this subject was affirmed by the Judicial Committee of the Privy Council in the case of *Tambasvdmi Mudali* v. *Muhammad Husain*, L. R. 2 Indian Appeals, 241. Rules are also laid down on the other subjects hereinafter mentioned.

The Bill is divided into fourteen chapters.

Preliminary.

Chapter I contains the usual preliminary matter. The repealing clause will get rid of several obsolete statutes relating to land which are still in force in the Presidency Towns and, in the case of Europeans, may possibly be in force elsewhere. The saving clause exempts from the operation of the proposed Act acquired rights and liabilities incurred before the Act comes into force, subsequently acquired rights of pre-emption, options of mortgagees to make further advances (such options exist in Malabar and possibly elsewhere), contracts of bottomry and respondentia, transfers of British ships, sales in execution of decrees or for arrears of rent or revenue.

Assurances of Immoveable Property.

Chapter II deals with assurances of immoveable property. It declares (section 4) that every person competent to contract may make an assurance of property of which he is the owner, or which he is entitled to transfer, or on which he is entitled to create a charge. It declares (sections 5, 6 and 7) that land may be conveyed (*a*) with the benefit of, or subject to, an easement: (*b*) subject to an obligation for the benefit of the public or of the neighbouring owner, or (*c*) with the reservation of any right of user, severance and removal. It lays down rules (section 8) as to the mode in which the transfer *inter vivos* of immoveable property can alone be effected, and applies (section 9) to assurances the rules of construction contained in the Succession Act. It declares (section 10) that, unless a contrary intention appears by the assurance, a grant shall be deemed to pass to the grantee all the interest which the grantor is capable of passing in the subject, and a grant of land shall be deemed to comprise trees and fixtures. Covenants running with the land are dealt with by the same section.

Sales of Immoveable Property.

The Bill then enumerates (section 11) the rights and liabilities which, in the absence of any provision to the contrary, arise in the case of a sale of land. The principal changes in the law here made are as follows: the seller will be responsible for loss caused to the buyer, or any person claiming under him, through any invalidity of the seller's title not known to the buyer when the contract was entered into and the seller's lien for unpaid purchase-money will cease as soon as the assurance is registered. Section 12 declares that, except so far as regards the vendor's lien, a contract for sale shall not of itself have the effect of creating any interest in the property sold: the Bill will thus get rid of much difficult law relating to the purchaser's equitable ownership, and the rights created by charging and assigning it. Lastly, section 13 declares that a person paying the purchase-money for any immoveable property, but having the transfer made to another, will not by reason of the payment be entitled to the property or to any interest therein. It will thus become the absolute property of the transferee, unless he is made a trustee in some way more definite than by the mere payment of the money by another person; and it is hoped that this rule will tend to prevent the litigation which arises from the doctrine of equitable presumption.

Mortgages and Charges.

Chapter IV deals with mortgages and charges. 'Mortgage' is so defined and explained as to include, besides simple mortgages, usufructuary mortgages, mortgages by conditional sale, and their combinations. The Bill declares (section 15) the respective rights of mortgagor and mortgagee on completion of a mortgage. It defines (sections 16, 17 and 18) the rights and duties of a mortgagee in possession. It shews when the mortgagor or the mortgagee may obtain an injunction to stay waste committed or threatened by the other. It provides rules (sections 19—24) as to suits for foreclosure or sale. Powers of sale given by the mortgage-deed to the mortgagee have been held void in the Mufassal: the Bill (section 24) declares them to be valid: but contains provisions for the protection of the mortgagor similar to those in 23 & 24 Vic., c. 145, ss. 11—14. It provides rules (sections 25, 26 and 27) as to suits for redemption. It contains provisions as to interest (section 28) and costs (sections 29, 30). It declares (section 31) that a deposit by a debtor of his title-deeds, shall be deemed to be only evidence of a contract for a mortgage and to entitle the creditor merely to sue for specific performance. Any person having an interest in the property charged may prevent a sale at the suit of a mortgagee (section 35) by paying off the mortgagee who requires it, and the registration of the mortgagee's receipt for the money will be sufficient without any further assurance. If the payment be made by a person having the whole interest in the property subject to the mortgage, the mortgage so paid off will (section 36) cease to exist: if the payment be made by a person not having the whole of such interest, he will acquire (section 37) the rights of the incumbrancer whom he has paid off.

The Bill abolishes the system of tacking, by declaring in sections 38 and 39 that no mortgagee paying off a prior mortgage shall thereby acquire any priority in respect of his original mortgage; that no mortgagee making a subsequent advance to the mortgagor shall thereby acquire any priority in respect of his security for such advance; and that, if the owner of two properties creates separate mortgages upon them by separate assurances, each property may be redeemed or dealt with irrespectively of the other, though the mortgages are created in favour of the same mortgagee.

It has been held that, where a mortgage extends to future advances, the mortgagee cannot safely make such advances, if he has notice of an intervening second mortgage. But the Bill (section 34) provides that, if a charge made to secure the balance of a running account expresses the maximum to be secured thereby, a second charge shall be postponed to the first charge in respect of advances not exceeding the maximum, though made subsequently to the second charge with notice thereof.

Leases.

Chapter V deals with leases of immoveable property. It lays down rules (section 43) as to the commencement and duration of leases. It states in some detail (section 44) the obligations which, in the absence of any stipulation to the contrary, are to arise out of the relationship of landlord and tenant. Special notice may be called to the provision enabling a lessee, where the lessor omits to make repairs which he is bound to make, himself to make them and deduct the expense from the rent, and the similar provision for the case of failure on the part of the lessor to make payments, which, if not made, are recoverable against the thing leased; to the provisions binding tenants to inform their landlords of proceedings to eject, and of encroachments, and to the power of obtaining a decree for the rescission of a lease, in a suit by either party, in case of misconduct by the other.

The rules as to fixtures in section 44, clauses (*q*) and (*r*), are, it is thought, likely to prove useful. No distinction is made between ornamental, trade and agricultural fixtures, save that the landlord is given a right (resembling that conferred by 15 Vic., cap. 25, section 23) to purchase agricultural fixtures.

The rest of this chapter saves (section 45) any right to distrain possessed under any local law: provides rules (section 46) as to the duration of leases in the absence of written agreement or of local law or usage; and treats (section 47) of the effect of holding over.

Exchanges.

Chapter VI deals with Exchange or Barter. It is taken from the New York Civil Code, and merely declares that each party has the rights and obligations of a seller as to that which he gives, and those of a buyer as to that which he takes; and that, on an exchange of money, each party warrants the genuineness of the money given by him.

Settlements.

Chapter VII deals with settlements, which are defined so as to include endowments and absolute gifts to children and others, excluding, however, gifts by Natives. The Bill declares (section 50) that a settlement may be binding, though not made for a consideration. Settlements made in fraud of creditors will be voidable (section 51) at their option; but not as against persons who, without notice and for valuable consideration, have acquired interests thereunder. The English law, by which a voluntary settlor of land can by subsequent sale defeat the settlement he has made, is not perpetuated here. Conditions restraining any person from parting with his or her interest will be void (section 52), and when property is settled on a married woman, it will therefore no longer be possible to deprive her of the power of anticipation. Such power is the logical consequence of a married woman's capacity, under Act IX of 1872, to enter into contracts. The Bill also contains provisions as to making interests under settlements or wills determinable on insolvency or attempted alienation (section 53), as to the vesting of gifts in general terms (section 54), as to the vesting of a gift to an unborn person not entitled to possession immediately on birth (section 55). Various sections of the Indian Succession Act (100—104, 107, 108, 111—127, 167) are applied (section 56), so far as the nature of the case will admit, to gifts contained in settlements.

Gifts for Religious and Charitable purposes.

In accordance with the Succession Act, the Bill prohibits (section 58) persons who have near relatives from giving property to religious or charitable uses unless by an instrument executed not less than twelve months before their death and duly registered. And while allowing property to be given in perpetuity for such uses, the Bill requires (section 59) that it shall be given with the sanction of some public authority to be designated by the Government. A mode of notifying the grant or refusal of such sanction is provided. Where the sanction is refused, the property will devolve as if the gift had not been made.

Apportionment.

Chapter IX consists of a single section (60) treating of the apportionment of rents and other periodical payments.

Rights and Liabilities of limited Owners.

In Chapter X, the Bill abolishes the distinction between limited owners with, and those without, impeachment of waste. Such persons (section 61) will not be entitled to do any act destructive or permanently injurious to the property; but it is explained that no act done in the reasonable enjoyment of property (such, for example, as working a mine) is 'destructive' or 'injurious,' though it may exhaust the substance of the property. The power of such persons and their representatives to remove fixtures will be the same as that given to tenants under a lease. Persons having limited interests in possession will be bound (section 62) to discharge periodical payments due under prior mortgages and also taxes and other public periodical charges. The right to increase in the value of property in which there are successive interests is declared (section 63); and a provision (resembling that made by 6 Anne, chapter 72, section 1) is made for the production of tenants for life, when the remainder-man has reason to suspect fraud.

Leases and Sales of settled Estates.

Chapter XI is suggested by the English Statute 19 & 20 Vic., cap. 20. It gives the Courts (here defined to mean only the High Courts and the District Courts) a power to deal with lands subject to a settlement or will, by lease or sale, or by appropriating any part of the property for the formation of streets, roads, gardens, tanks, &c. The various modes in which the proceeds of the sales or leases may be applied are specified.

Powers.

Chapter XII treats of powers, *i. e.*, rights to determine the disposition of property otherwise than by virtue of ownership. It reproduces the principal rules of the English law on the subject. But the Bill does not propose to give the Courts power to aid defective executions of powers. This jurisdiction does not rest on any sound principle, and is, indeed, hardly consistent with a strict system of registration. In the case of the exercise of a power given to several donees some of whom die before it has been fully exercised, the Bill declares (section 74) that the survivors may do all that might have been done by the whole number. An analogous declaration is made (section 77) as to a power exercisable with the consent of several persons.

Property held by several Persons.

Chapter XIII contains some rules as to the devolution of shares of several persons holding the same property. The Bill proposes to declare that a right by survivorship can be created only by express words. This chapter also contains some provisions (sections 94, 95, 96) as to partitions of immoveable property, which may be useful in cases to which no local law as to the partition of revenue-paying estates applies. In case of illegal waste by one of several persons holding the same property, power is given (section 98) to sue for compensation or to obtain an injunction.

Assignments of Things in Action.

Chapter XIV deals with the assignment of debts and other things which are not in the possession of the person entitled to them, but for the recovery of which he may be obliged to sue. The only change proposed to be made in what is now the law in all Indian Courts is, that the Bill requires (section 99) the assignee to complete his title by giving the debtor notice in writing of the assignment. Negotiable instruments are excluded from the operation of this chapter.

The subject of the Bill is one of great difficulty and complexity, and errors will doubtless be found in the present draft. Ample time will be given for the searching criticism which it is hoped the draft will receive at the hands of the Local Governments, the Judges and the legal profession.

SIMLA,
The 10th May 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 30, 1877. 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 June 1877 :—

No. 11 OF 1877.

A Bill to amend the Bombay Revenue Jurisdiction Act, 1876.

Preamble.

WHEREAS it is expedient to exempt from the operation of the fourth section of the Bombay Revenue Jurisdiction Act, 1876, certain suits instituted in the Districts mentioned in the Schedule hereto annexed; It is hereby enacted as follows :—

Addition to section 5, Act X of 1876.

1. To section five of the said Act the following clause shall be added (namely)—

"and nothing in section four shall be held to prevent the Civil Courts in the Districts mentioned in the second Schedule hereto annexed from exercising such jurisdiction as, according to the terms of Acts No. XI of 1852, No. XXIII of 1871, and Bombay Acts No. II of 1863, No. VII of 1863 and No. III of 1874, or of any other law in force on the twenty-eighth day of March 1876, they could have exercised over claims against Government—

"(*a*) relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III of 1874, or any other law for the time being in force, or of any other village-officer or servant :

"(*b*) to hold land wholly or partially free from payment of land-revenue :

"(*c*) to receive payments charged on, or payable out of, the land-revenue."

Schedule added to Act X of 1876.

2. The following Schedule shall be added to the said Bombay Revenue Jurisdiction Act, 1876, (namely)—

"THE SECOND SCHEDULE.

The District of Ahmedabad.

The District of Kaira, exclusive of the Panch Mahâls.

The District of Broach.

The District of Surat, exclusive of the lapsed State of Mándvi, as described in the schedule annexed to Act X of 1848.

The District of Tanna.

The District of Colába, exclusive of the lapsed State of Colába mentioned in Act VIII of 1853.

The District of Ratnágiri.

The District of Kanara."

STATEMENT OF OBJECTS AND REASONS.

1. The Bombay Revenue Jurisdiction Act (X of 1876), section 4, sub-section (*a*), article 1, and sub-section (*f*), articles 1 and 2, withdraw from the jurisdiction of the Civil Courts in every part of the Bombay Presidency (1) claims against Government relating to property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act III of 1874, or any other law for the time being in force, or of any other village-officer or servant, and (2) claims against Government to hold land wholly or partially free from payment of land-revenue, or to receive payments charged on, or payable out of, the land-revenue.

2. The object of this Bill is to restore to the Civil Courts, so far as the Old Provinces are concerned, whatever jurisdiction has been taken away by the articles above referred to.

3. The reasons for the Bill are shortly as follows: In the Old Provinces the Courts had, to a certain extent, cognizance of the claims in question; obscure and disputed claims to exemption from land-revenue or from enhanced assessments are commoner there than in other parts of India; and for these and other causes the change effected by the articles above mentioned is distasteful to the population.

SIMLA, *The 19th April* 1877. } A. J. ARBUTHNOT.

A. PHILLIPS,
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 14th June 1877:—

No. 12 OF 1877.

A Bill to amend the Chutia Nágpur Encumbered Estates Act, 1876.

Preamble.

FOR the purpose of amending the Chutia Nágpur Encumbered Estates Act No. VI of 1876; It is hereby enacted as follows:—

Amendment of Act VI of 1876, section 12, clause 2.

1. For the word "six" shall be substituted the word "twelve" in the second clause of the twelfth section of the said Act.

STATEMENT OF OBJECTS AND REASONS.

The Government of Bengal being of opinion that the period of six months provided by section 12 of the Chutia Nágpur Encumbered Estates Act, 1876, is too short for deciding whether an estate should be retained under management or relinquished under that section, the period of six months is, by the amending Bill, increased to twelve months, which period it is believed will be sufficient for the purpose.

SIMLA; *The 25th May* 1877. } A. J. ARBUTHNOT.

A. PHILLIPS,
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 14th June 1877, and was referred to a Select Committee:—

No. 13 of 1877.

THE TRANSFER OF PROPERTY BILL, 1877.

CONTENTS.

Preamble.

CHAPTER I.
PRELIMINARY.

SECTION.
1. Short title.
Extent.
Commencement.
2. Repeal of Acts.
Saving of certain rights, liabilities, etc.
3. Interpretation-clause.

CHAPTER II.
OF ASSURANCES OF IMMOVEABLE PROPERTY.
4. Persons competent to make assurances.
5. Conveyance of easements.
6. Power to convey subject to obligation for benefit of public or neighbour.
7. Power to convey with reservation of certain rights.
8. Form of assurance.
9. Application of rules of construction.
10. Operation of assurance.
Things comprised in grant.
Covenants concerning its subject.

CHAPTER III.
OF SALES OF IMMOVEABLE PROPERTY.
11. Rights and liabilities of seller and buyer.
12. Contract for sale not of itself to create interest in property.
13. Purchase of immoveable property which buyer causes to be transferred to another.

CHAPTER IV.
OF MORTGAGES AND CHARGES.
14. Mortgage, mortgagor and mortgagee defined.
15. Respective rights of mortgagor and mortgagee.
16. Rights and duties of mortgagee in possession.
17. Receipts of mortgagee in possession.
18. Injunctions to restrain waste.
19. Preliminary decree in foreclosure-suit.
Procedure in case of payment of amount due and subsequent costs.
Final decree for foreclosure.
20. Power to order sale at instance of mortgagee.
21. Power to decree sale in foreclosure-suit.
22. Mortgagee not to bid at sale.
23. Recovery of balance due on mortgage.
24. Power of sale.
25. Preliminary decree in redemption-suit.
26. Loss occasioned by mortgagee's default.
27. Procedure where nothing due or amount paid.
Procedure when amount due is not paid.
28. Payment of interest.
Proviso.
29. Costs of mortgagee.
30. Costs of mortgagee subsequent to decree.
31. Effect of deposit of title-deeds.
32. Sale of property subject to mortgage.
33. Application of proceeds.
34. Mortgage to secure balance of account.
35. Right to pay off mortgagee in order to prevent sale.
36. Effect of such payment by person having whole interest in property charged.
37. Effect of payment by person only partially interested.

SECTION.
38. Tacking abolished.
39. Redemption of one of two properties separately mortgaged.
40. Rights and powers of transferee of mortgage debt or mortgaged property.
41. Charge made by assurance or will.

CHAPTER V.
OF LEASES OF IMMOVEABLE PROPERTY.
42. Form of written lease.
43. Exclusion of day on which term commences.
Duration of term.
Option to determine lease.
44. Rights and liabilities of lessor and lessee.
45. Saving of right to distrain.
46. Duration of certain leases in absence of written agreement or local usage.
47. Effect of holding over.

CHAPTER VI.
OF EXCHANGES.
48. Exchange defined.
Rights and obligations of parties.
Exchange of money.

CHAPTER VII.
OF SETTLEMENTS.
49. "Settlement" defined.
50. Consideration not necessary to make settlement binding.
51. Voidability of settlement made in fraud of creditors.
52. Condition restraining alienation of interest.
53. Condition making interest determinable on insolvency or alienation.
54. Vesting of gift in general terms.
55. Vesting in interest of gift to unborn person not entitled to possession immediately on birth.
56. Application of sections of Act X of 1865 to gifts contained in settlements.
57. Right to income of property coming into possession under settlement.

CHAPTER VIII.
OF GIFTS FOR RELIGIOUS AND CHARITABLE PURPOSES.
58. Gift to charitable uses by person having certain relatives.
59. Assurance of property in perpetuity for use of any community or institution.

CHAPTER IX.
OF APPORTIONMENT.
60. Apportionment of rents and other periodical payments.

CHAPTER X.
OF CERTAIN RIGHTS AND LIABILITIES OF LIMITED OWNERS.
61. Rights and obligations of persons having limited interest in property.
62. Obligation of limited owner in possession of property mortgaged.
63. Right to increase of value to property in which there are successive interests.
64. Discovery of death of tenant for life.
65. Saving of lessees.

CHAPTER XI.
OF THE DISCRETION OF THE COURTS TO DEAL WITH SETTLED LAND.
66. Powers exercisable by Court on application of person interested in possession in settled immoveable property.
67. Service of notice and advertisement of application.
68. Appearance to oppose or support application.
69. Costs of application.
70. Leases under section 66.
71. Payment into Court of money receivable under section 66.
72. Power to direct payment of income to person entitled.
Application of residue.

CHAPTER XII.
OF POWERS.
73. Power to appoint, defined.
Donor, donee, objects, appointee, defined.
General power.
Special power.
74. Exercise of power vested in several donees.
75. Modes in which powers may be executed.
Jurisdiction to aid defective executions abolished.
76. Validity of forms hereby prescribed.
77. Concurrence where power is to be exercised with consent of several persons.
78. Recital of power not necessary.
79. Power exercisable by several instruments executed at different times.
80. Disposition intended to take effect after interests appointed under void power.
81. Effect of general power.
82. Effect of general power without disposition of property in case of non-appointment.
83. Interest conferrible by donee of special power.
84. Effect of appointment to objects some authorized and others unauthorized.
85. Appointment in excess of power when voidable at election of appointee.
86. Invalidity of appointment creating authorized and unauthorized interests not separable.
87. Appointment with unauthorized condition.
88. Contract not to exercise power of leasing.
89. Invalidity of agreement not to exercise power.
90. Frauds on powers.
91. Right to property in default of appointment.
92. Appointment of whole property to some only of several objects in favour of which power is given.

CHAPTER XIII.
OF PROPERTY HELD BY SEVERAL PERSONS.
93. Right to property by survivorship created only by express words.

SECTION.
94. Partition of immoveable property. Power to direct sale and to distribute proceeds.
95. Power to allow person interested to bid for property sold for purpose of partition.
96. Payment into Court.
97. Saving of laws relating to partition of revenue-paying estates.
98. Waste by one joint-owner.

CHAPTER XIV.

OF ASSIGNMENT OR THINGS IN ACTION.

99. Sale, &c., of things in action.
100. Notice to be in writing signed.
101. Liability of assignee of thing in action.
102. Saving of negotiable instruments.

The First Schedule—Enactments repealed.
The Second Schedule—Forms.

A Bill to define and amend the law relating to the Transfer of Property.

WHEREAS it is expedient to define and amend the law relating to the transfer of property; It is hereby enacted as follows:— (Preamble.)

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Transfer of Property Act, 1877:" (Short title.)

It extends to the whole of British India; (Extent.)

And it shall come into force on the day of 1878. (Commencement.)

2. On and from that day the enactments specified in the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof. (Repeal of Acts.)

Nothing herein contained shall be deemed to affect— (Saving of certain rights, liabilities, &c.)

(*a*) any right or liability acquired or incurred before this Act comes into force or any remedy in respect of any such right or liability:

(*b*) any right of pre-emption acquired after this Act comes into force:

(*c*) any option of a mortgagee to make further advances required by the mortgagor:

(*d*) any contract of bottomry or respondentia:

(*e*) any sale, mortgage or other transfer of a British ship:

(*f*) any sale in execution of a decree or order, or for arrears of rent or revenue:

(*g*) the construction of any instrument executed before this Act comes into force.

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

"assurance" means any instrument not testamentary, creating, transferring or otherwise disposing of any interest in immoveable property; ("assurance.")

the person so creating, transferring or otherwise disposing, is called a grantor: the person in whose favour such creation, transfer or disposition is made, is called a grantee; and the operation effected by an assurance is called a grant: ("grantor." "grantee." "grant.")

"registered" means registered in British India under the law for the time being regulating the registration of documents. ("registered.")

"affixed to the soil" means— ("affixed to the soil.")

(*a*) imbedded in the soil, as in the case of walls;

(*b*) permanently resting upon it, as in the case of buildings; or

(*c*) permanently attached to what is so imbedded or so rests, as by means of nails, bolts or screws.

and all words occurring in this Act and defined in the Indian Contract Act, 1872, shall have the meaning attributed to them respectively by that Act. (Words defined in Act I of 1872.)

CHAPTER II.

OF ASSURANCES OF IMMOVEABLE PROPERTY.

4. Every person competent to contract may make an assurance of any immoveable property of which he is the owner, or which he is entitled to transfer, or on which he is entitled to create a charge. (Persons competent to make assurances.)

5. Immoveable property may be granted with the right to an easement affecting any other immoveable property belonging to the grantor, or subject to an easement for the benefit of any other property. (Conveyance of easements.)

Easements may be made the subject of separate grants.

Where any easement is actually enjoyed with any property the subject of any grant, the grant shall, unless a contrary intention appears by the assurance, be deemed to pass such easement.

6. Immoveable property may be granted subject to an obligation for the benefit of the public or of any neighbouring owner. (Power to convey subject to obligation for benefit of public or neighbour.)

Such obligation shall bind the grantee and all persons claiming the granted property under him, and may be the subject of a separate grant.

Whenever such an obligation is created for the benefit of the public, it may be enforced by the grantor and his legal representatives or by the Government as a civil right.

Illustrations.

(*a*). A grants certain land to Z subject to the condition that Z shall not, without the consent of A, build any dwelling-house within a hundred yards of certain adjoining land of A. A and all persons claiming such land under him may enforce this obligation on Z, and all persons claiming the granted land under him.

(*b*). A grants certain land to Z, subject to the condition that Z shall for ever maintain thereon a fountain for the use of travellers.

In each case either A or the Government may enforce the obligation against Z, and all persons claiming the land under him.

7. Immoveable property may be granted with the reservation of any right of using the same or of severing and removing any part thereof. Such rights may be the subject of separate grant. (Power to convey with reservation of certain rights.)

Illustrations.

(*a*). A may grant to B his lands of Rámnagar, reserving to himself the right to dig for and remove the coal and other minerals thereon, and to do in person, or by his servants, whatever is necessary for obtaining and removing the coal and other minerals.

(*b*). A may grant to B. by a separate assurance, the right to plant fruit-trees on A's lands of Rámnagar, and to gather the fruit.

8. An assurance may be made in the form in the second schedule hereto annexed, or in any other form which expresses an intention thereby, and without any further act, to grant any interest in immoveable property. (Form of assurance.)

9. The rules of construction which apply to testamentary instruments shall also be applicable to assurances, so far as the different nature of assurances will permit. (Application of rules of construction.)

10. Unless a contrary intention appears by the assurance, a grant shall be deemed to pass to the grantee all the interest which the grantor is capable of passing in the subject of the grant, and to comprise— (Operation of assurance.)

(*a*) trees and all other products of the soil;

(*b*) things affixed to the soil, and, in the case of machinery so affixed, the moveable parts thereof;

(*c*) in the case of a house, the locks, keys, bars, doors and windows,

and a covenant by the grantee concerning the subject of the assurance binds all persons claiming such subject under the grantee, and may be enforced by all persons claiming under the grantor, and a like covenant by the grantor binds all persons claiming the subject under the grantor, and may be enforced by all persons claiming under the grantee. (Covenants concerning its subject.)

CHAPTER III.

OF SALES OF IMMOVEABLE PROPERTY.

11. Unless a contrary intention appears from the assurance or, when no assurance has been made, from the contract, the seller and the buyer of immoveable property respectively possess the rights and are subject to the liabilities mentioned in the nine rules next following, or such of them as are applicable to the property sold: (Rights and liabilities of seller and buyer.)

(*a*). If the buyer, or any person claiming under him, suffers loss by reason of any invalidity of the seller's title not known to the buyer when the contract was entered into, the seller, or, where the seller is not the person for whose benefit the consideration was received, then such other person, is responsible for the loss so suffered.

(*b*). The seller has a charge upon the property for the amount of the purchase-money, or any part thereof, remaining unpaid; but as soon as the assurance (if any) is registered, such charge shall cease.

EXPLANATION.—Money for which a bill of exchange has been taken remains unpaid, within the meaning of this clause, until the bill is paid.

(*c*). After the contract has been made, the seller is entitled to the rents and profits of the property until the time fixed for the completion of the sale, and if he has received any such rents and profits which accrued after that time, he must on completion account for them to the buyer. The buyer must, on completion, pay to the seller interest on the purchase-money from the time fixed for the completion of the sale. But this is not to preclude either party from obtaining compensation where loss has been occasioned by the default or delay of the other party.

(*d*). The buyer is entitled to a charge on the property for the amount of any purchase-money properly paid by him in anticipation of the completion of the sale.

(*e*). In the absence of fraud or misrepresentation the seller is not answerable for any latent defect in the property sold.

(*f*). After the contract has been made, the buyer is liable to bear any loss arising from the destruction or decrease in value of the property, and not caused by the seller's fault, and is entitled to the benefit of any improvement in, or increase in value of, the property.

(*g*). The seller is bound to execute a proper assurance of the property when the buyer tenders it to him for execution at a proper time and place.

(*h*). When the buyer has been let into beneficial possession of the property pending discussions as to the seller's title thereto, and the contract is not completed owing to defects in such title, the buyer is not liable to pay for his use of the property.

(*i*). When the completion of the contract is delayed by the buyer, and, after the day fixed for completing it, the seller expends money on the property, the seller is entitled to recover the amount so expended, provided that such expenditure was required for the preservation of the property, or by any law for the time being in force.

12. Save as provided by section 11, clause (*d*), a contract for the sale of, or relating to, immoveable property, whether registered or not, shall not have the effect of creating any interest in, or charge on, such property; but the only right of any person under the contract shall be to apply for specific performance, or for compensation, or for both, according to the rules laid down in the Indian Contract Act, 1872, and the Specific Relief Act, 1877. (Contract for sale not of itself to create interest in property.)

13. A person paying the consideration for any immoveable property, but having the transfer of it made to another person, is not, by reason of such payment, entitled to such property or to any interest therein. (Purchase of immoveable property which buyer causes to be transferred to another.)

CHAPTER IV.

OF MORTGAGES AND CHARGES.

14. When any interest in specific property is actually or contingently transferred by one person to another for the purpose of securing the payment of money, the transfer is called a mortgage, the transferor is called a mortgagor, the transferee a mortgagee, the money of which payment is secured is called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

Mortgage, mortgagor and mortgagee defined.

For the purposes of this chapter, any person claiming as heir, legatee, assignee, lessee or otherwise the interest of the transferor in the property subject to the mortgage, or any part of such interest, is a mortgagor; and any person claiming as heir, legatee, assignee or otherwise the interest of the transferee under the mortgage, or any part thereof, is a mortgagee.

EXPLANATION.—A judgment-creditor who attaches any mortgaged property or mortgage-money claims under the transferor or transferee (as the case may be) within the meaning of the second paragraph of this section.

Illustrations.

(*a*). A binding himself personally for the repayment of a loan, pledges certain land to B as collateral security for such repayment, but does not actually deliver possession.

(*b*). A not so binding himself, pledges certain land as in illustration (*a*), and covenants that in default of payment of the loan on a certain date the land pledged shall pass to B.

(*c*). A borrows money from B, and gives up certain land to B that he may retain possession thereof until he has from the rents and profits of the land repaid himself the sum so lent.

(*d*). A binding himself as in illustration (*a*), pledges certain land to B as a collateral security for the repayment, and permits B to receive the rents and profits of the land until he has repaid himself the loan, but does not actually deliver possession.

(*e*). A not so binding himself covenants that on default of payment of the loan on a certain date the land pledged shall pass to B. A meanwhile puts B into possession of the land, and allows him to receive the rents and profits in discharge of the loan.

(*f*). A charges certain land in favour of B with Rs. 1,000 and interest at the rate of twelve per cent. per annum.

(*g*). A charges a certain fund in favour of B with the amount which shall be due to him on the balance of A's account not exceeding Rs. 1,000, together with interest thereon at the rate of twelve per cent. per annum.

(*h*). A borrows Rs. 10,000 from B and conveys certain land to B in trust that the same shall stand charged with the payment to B of the Rs. 10,000 and interest and subject thereto in trust for C and others, and the deed confers express power on B in default of payment to sell the land.

Each of these transactions is a mortgage. A is the mortgagor, B the mortgagee.

(*i*). A, in consideration of a loan of money paid to him by B, makes over his land to B for a term of twenty years, but does not bind himself to pay to B principal or interest. This is not a mortgage.

Respective rights of mortgagor and mortgagee.

15. On the completion of a mortgage the mortgagor has the following rights:—

(*a*) he may, at any time after the mortgage-money has become payable, or has been paid, and before his right to redeem the mortgaged property is foreclosed or the property is sold, institute a suit (hereinafter called a suit for redemption) to have the mortgaged property re-transferred to him;

(*b*) he may, at any time after the mortgage-money has become payable and before such suit is barred, tender to the mortgagee or deposit in the principal Civil Court within the local limits of whose ordinary original civil jurisdiction the mortgaged property or any part thereof is situate, to the account of the mortgagee, the whole amount for the time being due on the mortgage.

And the mortgagee has the following rights:—

(*c*) he may take possession of the mortgaged property at or after the time, if any, specified in the mortgage-deed for payment of the mortgage-money, or, if no time is so specified, at any time after the mortgage-money has become payable to him;

(*d*) he may, at any time after he is entitled to take possession of the mortgaged property, and before it is redeemed, institute a suit against the mortgagor (1) for a foreclosure of his right to redeem the property, with or without possession thereof, or (2) for a sale of the property, or (3) for either of such remedies;

(*e*) where the mortgagor deposits money in court under clause (*b*) of this section, the Court shall forthwith cause written notice of the deposit to be served on the mortgagee, and the mortgagee may, on depositing the mortgage-deed (if any) in the same Court and on filing a written statement (verified in manner prescribed by law for the verification of plaints) of the amount due to him under the mortgage, apply for and receive in payment of such amount the money so deposited;

(*f*) if at the date of the mortgage the mortgaged property is insured against fire, the mortgagee, in case of damage to the property by fire, may (in the absence of a contract to the contrary) require the insurance-money to be laid out in reinstating the property.

Rights and duties of mortgagee in possession.

16. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property, he has the following duties and rights:—

(*a*) he shall manage the property as a person of ordinary prudence would manage it if it were his own;

(*b*) he shall collect all rents and other profits arising out of the property;

(*c*) he shall, in the absence of an express contract to the contrary, pay out of the income of the property the Government revenue and all other charges of a public nature due in respect thereof and keep down the interest due on all mortgages of the property prior to his own, and on all mortgages of the property subsequent to his own, of which he has notice;

(*d*) he may spend such money as is necessary for the due management and preservation of the property and add it to the principal money secured, at the same rate of interest;

(*e*) where the property is by its nature insurable, he may insure and keep insured from loss or damage by fire the whole or any part of such property, and add the premiums paid for any such insurance to the principal money secured, at the same rate of interest;

(*f*) he shall keep accurate accounts of all sums received and spent by him as mortgagee;

(*g*) he shall, at any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported.

Receipts of mortgagee in possession.

17. When the mortgagee is in possession of the mortgaged property, unless there is an express contract in writing between the mortgagee and the mortgagor that his net receipts therefrom shall, so long as the mortgagee is in possession thereof, be taken in lieu of interest on the principal sum secured by the mortgage, such receipts shall be debited against him in reduction of the amount (if any) from time to time due to him on account of interest on the principal sum so secured, or, so far as such receipts exceed any interest due, in reduction of such principal sum.

Injunctions to restrain waste.

18. Where the mortgagor remains in possession of the mortgaged property or any part thereof, and commits or threatens to commit waste thereon, the mortgagee may obtain an injunction to stay the waste: provided that the security is insufficient or will be rendered insufficient by the waste complained of. Where the mortgagee takes possession of the mortgaged property or any part thereof and commits or threatens to commit waste thereon, the mortgagor may obtain an injunction to stay the waste.

EXPLANATION.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of houses, exceeds by one-half, the mortgage-money.

Foreclosure and Sale.

Preliminary decree in foreclosure-suit.

19. In a suit for foreclosure or sale, if the plaintiff succeed, the Court shall pass a preliminary decree, ordering—

(*a*) that an account be taken of what will be due to the mortgagee for principal and interest on the mortgage and for his costs of the suit, on the day next hereinafter referred to,

(*b*) that, upon the defendant paying to the plaintiff or into Court the amount so due, on a day within six months from the date of the decree, to be fixed by the Court, the mortgagor shall, if necessary, be put in possession of the mortgaged property by the mortgagee free from all incumbrances created by the mortgagee or any person claiming under him, or, where the mortgagee claims by derived title, by those under whom he claims; but

(*c*) that, if such payment is not made on or before such day, the mortgagor shall be absolutely foreclosed of all right to redeem such property.

Procedure in case of payment of amount due and subsequent costs.

If payment is so made of such amount and of such subsequent costs as are mentioned in section 30, the mortgagor shall (if necessary) be put into possession of the mortgaged property.

Final decree for foreclosure.

If such payment is not so made, the plaintiff shall be at liberty to apply to the Court for a decree for the foreclosure of the said mortgage, and the Court may then pass a decree ordering the defendant to be foreclosed of all right to redeem the mortgaged property, and may, if necessary, deliver possession of the property to the mortgagee; and thereupon the mortgagor's right to redeem and the debt secured by the mortgage shall both be extinguished.

Power to order sale at instance of mortgagee.

20. In any suit by the mortgagee under this chapter, the Court may, at the instance of the plaintiff, decree that in default of the defendant paying to the plaintiff or into court the amount for the time being due on the mortgage and the plaintiff's costs of the suit, the mortgaged property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into court and applied in payment of what is due for the time being to the plaintiff on the mortgage, and that the balance, if any, be paid to the defendant or other persons entitled to receive the same.

Power to decree sale in foreclosure-suit.

21. When the mortgagee sues only for a foreclosure, the Court may, at the instance of the mortgagor, decree that in default of such payment, the mortgaged property or a sufficient part thereof be sold, if (*a*) the Court considers that the mortgagee will not be damnified thereby, and (*b*) the mortgagor furnishes such security, if any, as the Court thinks fit for the payment of the balance due for the time being by him on the mortgage.

Mortgagee not to bid at sale.

22. At any sale under section 20 or section 21, the mortgagee shall not bid for or acquire any interest in the property sold without the leave of the Court, or without submitting to such conditions as the Court may impose.

Recovery of balance due on mortgage.

23. If the nett proceeds of any such sale are insufficient to pay the amount due for the time being on the mortgage, the balance may be recovered in the same suit in the same manner as under a decree for money, or by any other legal process open to the mortgagee.

Power of sale.

24. Power may be expressly conferred by the mortgage-deed on the mortgagee to sell or concur in selling the mortgaged property, or any part thereof, on default made in payment of any principal money or interest, payment of which is secured by the mortgage-deed. But in exercising such a power, the mortgagee shall be subject to the following rules (namely)—

(*a*) he shall use all reasonable diligence to obtain a fair price for the property:

(*b*) no such sale shall be made (1) until after six months' notice in writing of the intended sale has been given to the mortgagor, or (2) after the amount for the time being due on the mortgage has been paid or tendered to the mortgagee by or on behalf of the mortgagor, or (3) pending a suit for redemption of the property, or (4) so as to give the mortgagee any interest in the property.

When a sale has been effected in professed exercise of any such power, the title of the purchaser shall not be liable to be impeached on the ground that no such default had been made or that the rules so prescribed had not been complied with.

Receipts for purchase-money given by the mortgagee exercising such power shall discharge the purchasers therefrom.

The proceeds of every such sale shall be applied as follows:—

first, in defraying the expenses incident to the sale, or properly incurred in any attempted sale under the power;

secondly, in or towards satisfaction of the amount for the time being due on the mortgage; and

thirdly, the surplus (if any) of the said proceeds shall be paid to the mortgagor.

Redemption.

25. In a suit for redemption, if the plaintiff succeed, the Court shall pass a preliminary decree for taking the accounts, as provided by section 19, between the mortgagor and mortgagee, and directing that upon the mortgagor paying within six months from the date of the decree to the mortgagee or into Court what (if anything) is found due to the mortgagee for principal, interest and costs, the mortgagee shall re-convey the mortgaged property to the mortgagor, free from the mortgage, and from all incumbrances created by the mortgagee or any persons claiming under him, and that if such amount is not so paid, the plaintiff's suit shall thenceforth stand dismissed, and that he shall be foreclosed of all right to redeem the mortgaged property.

Preliminary decree in redemption-suit.

26. If the mortgagee fail to perform any of the duties imposed upon him by section 16, he may, when the said accounts are taken, be debited with the loss, if any, occasioned by such failure.

Loss occasioned by mortgagee's default.

27. If on taking the accounts nothing is found due to the mortgagee, or if the amount found due together with such subsequent costs as are mentioned in section 30 is paid according to the decree, the mortgagor shall, if necessary, be put into possession of the property. But if such amount and costs are not so paid, the mortgagor shall be absolutely foreclosed of all right to redeem the property, and the Court shall, if necessary, deliver possession thereof to the mortgagee.

Procedure where nothing due or amount paid.

Procedure when amount due is not paid.

Interest.

28. When the mortgagor and mortgagee have contracted as to the payment of interest on the principal money for the time being due to the mortgagee under the mortgage, interest shall be payable in accordance with such contract: Provided that where the mortgagor has tendered or deposited in Court the whole amount due to the mortgagee, such interest shall cease from the date of the tender or from the time when the mortgagee could take such amount out of Court, as the case may be.

Payment of interest.

Proviso.

Costs.

29. The mortgagee is ordinarily entitled to add to his debt his costs properly incurred of any suit under this chapter. But such costs, or any part thereof, may be disallowed if the mortgagor has tendered to the mortgagee or has deposited in Court the whole amount due to him under the mortgage, and if the mortgagee has unreasonably refused to accept such tender or to take such money out of Court in discharge of his claim, or if he has prevented a mortgagor willing and able to make such tender or deposit from making it by refusing or neglecting to give him proper information as to the state of the accounts required to be kept under section 16.

Costs of mortgagee.

30. In finally adjusting the amount to be paid to a mortgagee in case of a redemption or a sale by the Court under this chapter, the Court shall, unless the conduct of the mortgagee has been such as to disentitle him to costs, add to the principal debt such costs of suit as have been properly incurred by him since the decree for foreclosure, redemption or sale up to the time of actual payment.

Costs of mortgagee subsequent to decree.

Deposit of Title-deeds.

31. The deposit of title-deeds with intent to create a mortgage on the property comprised therein, but without actual transfer of such property, shall be deemed to be only evidence of a contract for a mortgage of the property, and shall entitle the depositee merely to institute a suit for specific performance of such contract.

Effect of deposit of title-deeds.

Sale of property subject to prior mortgage.

32. If any property the sale of which is directed under this chapter is subject to a prior mortgage, the Court may, with the consent of the prior mortgagee, order that the property be sold free from the same, giving to such prior mortgagee the same interest in the proceeds of the sale as he had in the property sold.

Sale of property subject to prior mortgage.

33. Such proceeds shall be brought into Court and applied as follows:

Application of proceeds.

first, in payment of all expenses incident to the sale or properly incurred in any attempted sale;

secondly, if the property has been sold free from any prior mortgage, in payment of whatever is due on account of such mortgage;

thirdly, in payment of all interest due on account of the mortgage in consequence whereof the sale was directed, and of the costs of the suit in which the decree directing the sale was made;

fourthly, in payment of all principal moneys due on account of that mortgage; and

fifthly, the residue (if any) shall be paid to the person proved to be interested in the property sold, or if there be more such persons than one, then to such persons according to their respective interests therein.

34. If a mortgage made to secure the balance of a running account expresses the maximum to be secured thereby, a subsequent mortgage on the same property shall, if made with notice of the prior mortgage, be postponed to the prior mortgage in respect of all advances or debits not exceeding the maximum, though made or allowed with notice of the subsequent mortgage.

Mortgage to secure balance of account.

Illustration.

A gives to his bankers, B & Co., a charge on Sultánpur to secure the balance of his account with them to the extent of Rs. 10,000. A then gives to C a charge on Sultánpur to secure Rs. 10,000; and C gives notice thereof to B & Co. At the date of the second charge, the balance due to B & Co. does not exceed Rs. 5,000. B & Co. subsequently advance to A sums making the balance of the account against him exceed the sum of Rs. 10,000. B & Co. are entitled, to the extent of Rs. 10,000, to priority over C.

35. Any person having an interest in mortgaged immoveable property may, at any time before a sale of such property has taken place under this chapter, tender to the next prior mortgagee the amount due to him on account of his mortgage. Such mortgagee is bound to accept such tender and to give a receipt for the sum due, and on such receipt being registered, his interest in the property in respect of the mortgage shall absolutely cease.

Right to pay off mortgagee in order to prevent sale.

36. In such case, where the person making the tender has, subject to the mortgage, the absolute ownership of the property, the mortgage shall cease to exist and the property shall vest in the person making such tender.

Effect of such payment by person having whole interest in property charged.

37. If the tender be made by a person not having, subject to the mortgage, the absolute ownership of the property, he shall acquire in respect of the property all the rights and powers of the mortgagee to whom he has made such tender.

Effect of payment by person only partially interested.

38. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security. And no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his security for such subsequent advance.

Tacking abolished.

39. If the owner of two or more properties creates separate mortgages on them by separate assurances, each mortgage may be dealt with irrespectively of the other, though the mortgages are created in favour of the same mortgagee.

Redemption of one of two properties separately mortgaged.

Illustration.

A, the owner of farms Z and Y, mortgages Z to B for Rs. 1,000. A afterwards mortgages Y to B for Rs. 1,000, making no stipulation as to any additional charge on Z. A may institute a suit for the redemption of the mortgage on Z alone.

40. If property subject to a mortgage, or the right to receive mortgage-money, be transferred to a third person, the transferee has all the rights and powers of his transferor, under the mortgage, and is subject to the liabilities existing between his transferee and the mortgagor or mortgagee, as the case may be.

Where such a transfer is made for the purpose of securing the payment of money, the original mortgage-debt, if recovered by either the transferor or the transferee, is applicable, *first*, in payment of the costs of such recovery, *secondly*, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor.

Rights and powers of transferee of mortgage-debt or mortgaged property.

41. If by any assurance other than a mortgage-deed, or by any will, or under the provisions of this or any other Act, or by operation of law, certain property of one person is made security for the payment of certain money to another, all the provisions hereinbefore applied to a mortgagor shall apply to the owner of such property, and all the provisions hereinbefore applied to a mortgagee shall apply to the owner of such money.

Charge made by assurance or will.

CHAPTER V.

OF LEASES OF IMMOVEABLE PROPERTY.

42. A lease may be made in the form in the second schedule hereto annexed, or in any other form which expresses an intention of the parties to give and take, for rent or a fine, possession of, or profits derived from, immoveable property, for a time shorter in duration than the lessor's interest therein.

Form of written lease.

43. Where the time limited by a lease is expressed as commencing from a particular day, in computing that time such day shall be excluded.

Exclusion of day on which term commences.

Where the time so limited is a year or a number of years, in the absence of any express agreement to the contrary, the lease shall last during the whole anniversary of the day on which such time commences.

Duration of term.

Where the time so limited is expressed to be determinable before its expiration, and there is no express agreement as to the party having the option of determining it, the lessee shall have such option.

Option to determine lease.

44. Unless a contrary intention appears from the lease, the lessor and the lessee, as against one another, respectively possess the rights and are subject to the liabilities mentioned in the twenty-two rules next following, or such of them as are applicable to the property leased:—

Rights and liabilities of lessor and lessee.

(*a*). During the continuance of the lease, the lessee is entitled to the enjoyment of all lights, waters, water-courses, drains, ways and other easements enjoyed as incident to the property leased at the time when the lease was made.

(*b*). The lessor is bound to put the lessee in possession of the property leased, and to deliver it to him in a condition reasonably fit for the purpose for which both parties contemplate that the lessee is to use it.

(*c*). If the lessee is, by reason of the invalidity of the lessor's title, or by any act or default of the lessor, or of any person claiming under him, or of any person claiming by a superior title to his, disturbed in the peaceable enjoyment of the property leased, the lessee is entitled to compensation from the lessor for any loss thereby caused, and may also obtain from any Court of competent jurisdiction a decree for the rescission of the lease.

(*d*). If the lessee is, by reason of the invalidity of the lessor's title, deprived of any substantial part of the property leased, or of anything essential to his enjoyment thereof, he is entitled to compensation from the lessor for any loss thereby caused, and may also obtain from any Court of competent jurisdiction a decree for the rescission of the lease.

(*e*). In the absence of fraud or misrepresentation, the lessor is not answerable for any latent defect in the thing leased.

(*f*). The lessor is bound to do all things necessary for maintaining the roof, walls, beams, floors, stairs and drains of any house or other building comprised in the lease, and may for that purpose enter such building at all reasonable times.

(*g*). In all other respects the lessee is bound to keep, and at the end of the lease to restore, the property leased in as good condition as it was in at the time when he was put in possession, subject only to reasonable wear and tear.

(*h*). Deteriorations arising from want of painting or plastering, or from breaking of glass, are not to be considered as wear and tear, but shall be made good by the lessee.

(*i*). If by fire, tempest or flood, or violence of an army or of a mob, or other superior force, any part of the property leased be wholly destroyed or rendered substantially unfit for the purposes for which it was let, the obligation of the lessor as to that part shall cease unless he consents to reinstate the part so destroyed or rendered unfit; but in case of refusal or neglect to reinstate the same, the lessee shall be entitled to be discharged from his lease.

If the injury be occasioned by the wrongful act of either party, such party shall not be entitled to avail himself of the benefit of this provision.

(*j*). In case any rent remains unpaid at the end of a month from the time when it was payable and demanded, or in case within a reasonable time after notice default is made by the lessee in the performance of any of his other obligations under the lease, the lessor may institute a suit for a decree for the rescission of the lease and for possession of the property leased, unless the lessee shall, within a time to be specified by the Court, pay such arrears and perform such obligations, and also pay all costs and expenses sustained by the lessor through the lessee's default.

(*k*). In case the lease is rescinded for the default of the lessee, he is bound to pay the rent up to the time of such rescission, and also to make compensation for any other loss resulting from his default.

(*l*). If the lessor neglects to make, within a reasonable time after notice, repairs which he ought to make, the lessee may make the same himself, and deduct the expense of such repairs from the rent, or otherwise recover it from the lessor.

(*m*). If the lessor neglects to make any payment which he is bound to make, and which if not made is recoverable against the property leased, the lessee may make such payment himself, and deduct it from his rent, or otherwise recover it from the lessor.

(*n*). Every lessee who receives notice of any proceeding to recover the property leased to him or any part thereof, is bound to give notice thereof to the lessor with reasonable diligence; and, in default of so doing, he is liable to make compensation to the lessor for any loss or expenses occasioned by such omission.

(*o*). The lessee is bound to give notice to the lessor, within a reasonable time, of any encroachment made upon, or any interference with the lessor's rights concerning, the property leased; and, in default of so doing, he is liable to make compensation to the lessor for any loss or expenses occasioned by such omission.

(*p*). The lessee may use the soil and its products for all purposes of enjoyment as a reasonable owner would use them: but he may not destroy them wastefully, nor remove them after the expiration of the lease.

(*q*). No lessee of immoveable property who erects thereon any building, engine or machinery for agricultural purposes shall remove the same without first giving to the lessor or his agent one month's previous notice in writing of his intention so to do, and thereupon the lessor or his agent may elect to purchase the thing so proposed to be removed, and the lessee's right to remove the same shall thereby cease, and the same shall belong to the lessor, and the value thereof shall in case of dispute be ascertained and determined by two referees, one to be chosen by each party, or by an umpire to be named by such referees, and shall be paid or allowed in account by the lessor.

(*r*). Subject to the provisions of clause (*g*) and clause (*q*), the lessee has a right to remove at any time during his possession of the property leased, or within a reasonable time afterwards, all things not being products of the soil which he has affixed to the soil.

(*s*). When a lease of land determines in consequence of an uncertain event over which the lessee has no control, the lessee is entitled to all the crops growing upon the land for the season current when the lease determines, and to free ingress, egress and regress to reap and carry them.

(*t*). Upon the death of the lessor or of the lessee, his legal representative shall have all the rights and be subject to all liabilities of the lessor or lessee whom he represents.

(*u*). If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee shall possess all the rights and, if the lessee so elects, be subject to all the liabilities of the lessor as to the property or part transferred so long as he is the owner of it; but the lessor shall not by reason only of such transfer cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him: Provided that if the lessee pay rent to the lessor without having reason to believe that such transfer has been made, he shall not be liable to pay such rent over again to the transferee.

Where only a part of the property leased is transferred by the lessor, he may determine what proportion of the rent reserved by the lease is payable in respect of the part so transferred.

(*v*). The lessee has a right to transfer his lease. The transferee may again transfer it. The lessee shall not, by reason of such transfer, cease to be subject to any of the liabilities attaching to the lease, unless the lessor elects to treat the transferee as the person subject to such liabilities. Subject as aforesaid, each successive transferee, so long as he is entitled to the property leased, possesses all the rights, and is subject to all the liabilities, of the lessee.

45. Nothing in this Act shall affect any right to distrain which a lessor may exercise under any local law for the time being in force.

Saving of right to distrain.

46. In the absence of any written agreement and of any local law or usage to the contrary, a lease of property for purposes of cultivation shall be a lease from year to year terminable by six months' notice ending with the end of a year of the tenancy; and a lease of property for any other purpose shall be a lease from month to month, terminable by fifteen days' notice ending with the end of a month of the tenancy.

Duration of certain leases in absence of written agreement or local usage.

Every notice under this section must be in writing signed by or on behalf of the party giving it and served on the party who is intended to be bound by it.

47. If a lessee of property remains in possession thereof after the expiration of the lease, and the lessor accepts rent from him, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year or from month to month, according to the purpose for which the property is leased, as specified in the last preceding section.

Effect of holding over.

Illustrations.

(*a*). A lets a house to B for five years. B sub-lets the house to C at a monthly rent of Rs. 100. The five years expire, but C continues in possession of the house and pays the rent to A. C's lease is renewed from month to month.

(*b*). A lets a farm to B for the life of C. C dies, but B continues in possession with A's assent. B's lease is renewed from year to year.

CHAPTER VI.

OF EXCHANGES.

48. Exchange is a contract by which the parties mutually give, or agree to give, one thing for another, neither thing or both things being money only.

"Exchange" defined.

Each party has the rights and obligations of a seller as to that which he gives and the rights and obligations of a buyer as to that which he takes.

Rights and obligations of parties.

On an exchange of money, each party thereby warrants the genuineness of the money given by him.

Exchange of money.

CHAPTER VII.

OF SETTLEMENTS.

49. "Settlement" means in this chapter any disposition of property—

"Settlement" defined.

(*a*) which is not testamentary, and is not founded on any valuable consideration, or

(*b*) which is made in consideration of marriage, or

(*c*) which is made for the purpose of dividing property of the settlor among his family or those for whom he desires to provide,

but does not include a gift made by a Hindú Muhammadan or Buddhist.

50. In order that a settlement should be binding, it is not necessary that it should be made for a consideration.

Consideration not necessary to make settlement binding.

51. A settlement made for the purpose of depriving present or future creditors or other persons having demands against the settlor, of their demands on him, is voidable at the option of such creditors or other persons, and so far as regards the demands of such creditors or other persons, but not as against a person who, having no knowledge of the purpose for which the settlement was made, has contracted for or acquired an interest therein by marriage or for other valuable consideration, nor as against claimants under such persons. Such settlement is nevertheless binding on the settlor and on all persons claiming under him.

Voidability of settlement made in fraud of creditors.

EXPLANATION.—Where there is no positive evidence of fraud, the intent to deprive creditors and other persons of their demands on the settlor may be inferred from

(*a*) the indebtedness of the settlor at the date of the settlement,

(*b*) want of consideration for the settlement, and

(*c*) any other circumstance indicative of fraud.

52. A condition or limitation in a settlement or will restraining any person from parting with or disposing of his interest, is void.

Condition restraining alienation of interest.

53. A condition or limitation contained in a settlement or will making an interest thereby reserved or given to or in trust for any person to cease on his becoming insolvent, or endeavouring to transfer or dispose of the same, is void.

Condition making interest determinable on insolvency or alienation.

54. If by a settlement property be given to a person then living in general terms, without indicating the time when it is to be paid or delivered, such person has a vested interest therein from the day of the execution of the settlement, and if he dies without having received it, it shall (subject to any legal disposition thereof which he may have made) pass to his legal representatives.

Vesting of gift in general terms.

55. Where by the terms of a settlement a thing is given to a person not in existence, but he is not entitled to possession of it immediately upon his birth, a right to receive it at the proper time shall, unless a contrary intention appears by the settlement, become vested in such person upon his birth, and shall (subject to any legal disposition thereof which he may have made) pass to his legal representative if he dies before that time, and without having received it. And in such cases it is from his birth said to be vested in interest.

Vesting in interest of gift to unborn person not entitled to possession immediately on birth.

56. The provisions of the Indian Succession Act, 1865, sections 100 to 104, both inclusive, 107 and 108, 111 to 127, both inclusive, and 167, shall be applicable, so far as the nature of the case will admit, to gifts contained in settlements.

Application of sections of Act X of 1865 to gifts contained in settlements.

57. Whenever a person becomes entitled in possession by virtue of a settlement to money or any other property yielding income, he shall be entitled to receive the interest or income thereof from that time.

Right to income of property coming into possession under settlement.

CHAPTER VIII.

OF GIFTS FOR RELIGIOUS AND CHARITABLE PURPOSES.

58. No person having a nephew or niece, or any nearer relative, shall have power to give any property to religious or charitable uses, by any instrument which is required to be registered, unless such instrument be executed not less than twelve months before his death, and duly registered.

Gift to charitable uses by person having certain relatives.

59. Subject to the provisions of the last preceding section, property may be assured in perpetuity for the benefit of the public in the advancement of religion, knowledge, commerce, health, safety, or any other object beneficial to mankind. But no such assurance shall take effect until it has been sanctioned by some public authority to be designated by the Local Government by notification in the official Gazette.

Assurance of property in perpetuity for use of any community or institution.

The grant or refusal of such sanction may be notified by an entry in the book in which the assurance is registered, and the registering officer shall make such entry on receiving from the public authority aforesaid a written order in this behalf.

If no such order is made within two years next after the time when the property becomes applicable for the benefit of the public, it shall be deemed that sanction has been granted.

If such sanction is refused, the property shall devolve as if no such assurance had been made.

CHAPTER IX.

OF APPORTIONMENT.

60. All rents, annuities, pensions, dividends and other periodical payments shall, upon the determination of such payments by the death of the recipient or otherwise, be apportionable as if they had been made to accrue due from day to day, but to be payable on the days appointed for the payment thereof.

Apportionment of rents and other periodical payments.

Nothing in this section shall affect any express provision in any instrument binding on the recipient.

CHAPTER X.

OF CERTAIN RIGHTS AND LIABILITIES OF LIMITED OWNERS.

61. A person having a limited interest in any immoveable property is not entitled to do or omit any act the doing or omitting of which is destructive or permanently injurious to such property.

Rights and obligations of persons having limited interest in property.

EXPLANATION.—No act done in the reasonable use and enjoyment of property is destructive or injurious within the meaning of this section, though it may exhaust the substance of the property.

Illustrations.

(*a*). A Hindú widow is in possession as such of land protected from floods and rendered cultivable by a dyke. She is not entitled to cut the dyke and turn the land into a lake.

(*b*). A is tenant for life of land on which a dwelling-house stands. He is not entitled to pull down the house. Nor must he suffer it to fall for want of necessary repairs.

(*c*). A is tenant for life of land in which coal lies. He is entitled to work and use the coal.

(*d*). A is tenant for life of land planted with trees. He is entitled to cut the trees at maturity, but is not entitled to cut them when immature, except for the purpose of thinning out or otherwise benefiting the plantation.

Save as aforesaid, such person or his legal representative has the same right as a lessee to remove during the continuance of such interest or within a reasonable time afterwards, all things which he has affixed to the soil in which he had such limited interest, and all crops growing upon the land for the season current when such limited interest determines.

62. A person having a limited interest in possession in any property, is bound to discharge all periodical payments due on account of any mortgage thereon taking effect during the continuance of his interest in priority to such interest, and all taxes and other public periodical charges to which such property is liable.

Obligation of limited owner in possession of property mortgaged.

63. Every advantage or increase of value accruing (accidentally or through the exertions of any one having a limited interest) to any property in which successive interests exist, belongs to all the persons having any interest in the property in the same shares and manner as they are entitled to the property.

Right to increase of value to property in which there are successive interests.

EXPLANATION.—A person having a mortgage on property has not thereby an interest within the meaning of this section.

64. Any person claiming any immoveable property after the death of any minor, married woman, or other person, and having reason to believe that such minor, married woman or other person is dead, and that his or her death is concealed by his or her guardian, husband or any other person, may once a year move the High Court to order the person concealing or suspected to conceal such person to produce him or her at such time and place, and before such persons (if any), as the Court may direct. And the High Court, if it think fit, shall make such order, and in case of disobedience thereto, the person so claiming the property may enter thereon and receive the profits thereof as if the person so concealed or suspected to be concealed were dead.

Discovery of death of tenant for life.

65. Nothing in this chapter applies to lessees.

Saving of lessees.

CHAPTER XI.

OF THE DISCRETION OF THE COURTS TO DEAL WITH SETTLED LAND.

66. If any person having, under a settlement or will, a limited interest in possession in any immoveable property, apply under this section to the High Court or District Court within the local limits of whose ordinary original civil jurisdiction such property or any part thereof is situate, the Court may, if it deem it just and expedient to do so,—

Powers exercisable by Court on application of person interested in possession in settled immovable property.

(*a*) make such leases of the whole or any part of the property for such terms of years, for such rents, with such powers, and with such conditions, reservations and exceptions as the Court thinks fit;

(*b*) make such sales of the whole or any part of the property, for such sums, payable either at once or periodically, with such powers, and with such conditions; reservations and exceptions as the Court thinks fit;

(*c*) appropriate any part of the property for the formation of streets, roads, gardens or other open spaces, tanks, sewers, drains or water-courses, and authorize the erection of buildings and works thereon;

and generally deal with the property in any way the Court may think just and beneficial to the persons interested therein.

67. Every such application shall be in writing, and notice thereof shall be served through the Court on all trustees under the settlement or will and on any other persons who in the opinion of the Court ought to be so served, and shall be published in such newspapers as the Court may direct.

Service of notice and advertisement of application.

68. The Court may permit any person, whether interested in the property or not, to appear and be heard in opposition to or in support of any such application on such terms as to costs or otherwise as it thinks fit.

Appearance to oppose or support application.

69. The Court may order the costs of all or any parties to any application under this section to be paid out of any principal money receivable on account of any dealing with the property which is the subject of the application or to be a charge on such property or on any other property belonging to the same owners.

Costs of application.

70. Every lease made under section 66 shall take effect in possession; and on every such lease shall be reserved the best rent that can be reasonably obtained, to be made payable half-yearly or oftener without taking any fine or other benefit in the nature of a fine.

Leases under section 66.

71. All or any part of the proceeds of any lease, sale or disposition under section 66 may, if the Court think fit, be paid into Court.

Payment into Court of money receivable under section 66.

72. The Court shall declare what parts of such proceeds so received shall be considered as income, and may direct the same to be paid to the person for the time being entitled in possession to the property dealt with; and the residue of such money shall be applied as the Court shall direct in one or more of the manners following:—

Power to direct payment of income to person entitled.

Application of residue.

(*a*) the payment of the amount due in respect of any charge on the property dealt with;

(*b*) the purchase of other property or the investment in securities for the benefit of the persons interested in the property dealt with;

(*c*) the payment to any person becoming absolutely entitled to the property dealt with;

EXPLANATION—In this section the term "securities" means—

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

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

(*f*) stock or debentures of, or shares in, railway or other companies, the interest whereon has been guaranteed by the Government of India; and

(*g*) 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.

CHAPTER XII.

OF POWERS.

73. Where a person is authorized to determine the disposition of property otherwise than by virtue of his ownership, he is said to have power to appoint such property.

Power to appoint, defined.

The person who gives the power is called the donor, the person to whom the power is given is called the donee, and the persons for whose benefit the power is to be exercised are called the objects of the power. A person to whom any property is appointed is called an appointee.

Donor, donee, objects, appointee, defined.

Illustration.

A grants land to B for life, with remainder to such of B's children as B shall appoint. B appoints to C and D, two of his children, in equal shares. A is the donor of the power, B the donee, B's children the objects, and C and D the appointees.

A power authorising the donee to appoint to whomsoever and for whatsoever interest he pleases, is called a general power.

General power.

A power restricted in respect either of its objects or the interests that may be conferred under it, is called a special power.

Special power.

Rules as to all powers.

74. Where a power is vested in several donees, all who are living must unite in its execution; but in case any one or more of them die during the continuance of the power, it may be exercised by the survivors or the survivor, unless a contrary intention appears by the instrument creating the power.

Exercise of power vested in several donees.

75. The donor may direct that the power shall be exercised by will only or by non-testamentary instrument only.

Modes in which powers may be executed.

If he directs that the power shall be exercised by will only, it must be exercised by will duly executed according to the provisions of the Indian Succession Act, or according to such other law as at the time of the execution of the power may be applicable to a will executed by the donee.

If he directs that the power shall be exercised by non-testamentary instrument only, it must be exercised by an instrument executed as an assurance and registered.

If he imposes no such restriction on the exercise of the power, it may be exercised either by such will or by such instrument as lastly hereinbefore mentioned.

When the power is not properly exercised, no Court shall in any case compel the person in possession of the property to which the power relates to deliver the property as if the power had been properly exercised or shall otherwise aid the defective execution.

Jurisdiction to aid defective executions abolished.

76. All appointments made in the manner directed by section 75 shall be deemed to be executed and attested in proper form, notwithstanding that some other mode of execution or attestation has been prescribed by the donor.

Validity of forms hereby prescribed.

77. Where a power is to be exercised with the consent of several persons, all who are living must concur in the consent, but in case any one or more of them die during the continuance of the power, the consent of the survivors or the survivor is sufficient, unless a contrary intention appears by the instrument creating the power.

Concurrence where power is to be exercised with consent of several persons.

Consent to the exercise of a power must be given by an instrument executed as an assurance and registered.

Consent to the exercise of a power need not be given by the instrument by which the power is exercised, but if it is given by a different instrument, such instrument must be executed at a time not later than the time at which the donee of the power executes the instrument by which he exercises the power.

78. If a person disposes of property in such manner as is authorized by a power vested in him, such disposition shall take effect out of the power, notwithstanding that the power is not mentioned or referred to in the instrument of disposition.

Recital of power not necessary.

Illustration.

Land is settled upon A for life with a special power to charge, by a non-testamentary instrument, portions in favour of his children. Subsequently a general power to dispose of the land by any instrument is vested in A. He executes an assurance, by which he directs that a sum of money shall be raised out of the land and settled on his son B for life, with remainder to B.'s wife and children. Such an appointment cannot take effect under the special power, but may be treated as a valid exercise of the general power.

79. The donee of a power need not exercise it entirely and at once by a single instrument, but he may from time to time exercise any unexhausted part thereof at his discretion.

Power exerciseable by several instruments executed at different times.

If the donee has purported to exercise his power in such a manner that his appointment is void, the power is, to that extent, unexhausted.

80. Where a power given by any instrument is void in its creation, no disposition or gift made by the same instrument shall be deemed void merely because it is intended to take effect after the interests to be appointed under the power or in default of any such appointment,

Disposition intended to take effect after interests appointed under void power.

Illustration.

A marriage-settlement provides that the settled property shall belong to the husband and wife successively for their lives; that after the death of the survivor of them, it shall go to such of the children of the marriage and in such shares as the husband and wife shall jointly appoint, the interest of each such child to become vested in him on his attaining the age of twenty-five years; and that in the event of there being no child of the marriage who shall attain that age, or in default of appointment, the property shall belong to the husband or his legal representative.

Here the power to appoint the property is, under section 56, void in its creation; but the ultimate interest given to the husband takes effect.

General Powers.

81. If the donor confers on the donee a general power, the donee shall, so far as regards his power of disposition, his creditors and all persons who contract with him for valuable consideration to obtain any interest in the property comprised in the power, be deemed to be the absolute owner of such property for such interest therein as the donor could dispose of.

Effect of general power.

This rule is to take effect notwithstanding that the donor has prescribed some particular method for executing the power.

Illustrations.

A, the absolute owner of land, settles it on B for life, with remainder to such purposes as B—

shall appoint, or
shall by deed appoint, or
shall by will appoint, or
shall by deed or will appoint,

and, in case B dies without making any such appointment, on C absolutely.

If B—

grants the land by assurance, or
bequeathes it, or
contracts to sell it, or
incurs debt,

the property is liable, in the hands of either B or C, as the case may be, to the claims of B.'s grantee, legatee, purchaser or creditors, as the case may be.

If B dies having made no disposition of the property, C is entitled to it, subject to any claims which B's creditors may establish against it.

82. If the donor confers on the donee a general power, and makes no disposition of the property in the event of non-appointment, the donee shall be considered as the absolute owner of the property for such interest therein as the donor could dispose of.

Effect of general power without disposition of property in case of non-appointment.

Illustration.

A, the absolute owner of property, settles it on B for life with remainder to such purposes as B shall appoint, and makes no gift over in default of appointment. B dies without making any disposition of the property. The property vests in the representatives of B, and does not revert to A or his representatives.

Special Powers.

83. If the donee has only a special power, he cannot confer any interest in the property comprised therein which could not have been conferred by the donor at the time of the creation of the power.

Interest conferrible by donee of special power.

Illustrations.

(*a*). A settles a fund upon B for life with remainder to such purposes as B shall appoint. After the settlement is made C is born. B then appoints the fund to C for life with remainder to C's children absolutely. The appointment is valid, though C has no children at the time.

(*b*). A settles a fund upon B for life with remainder to his children as he shall appoint. At the date of the settlement B has no child, but afterwards has a son C. B then appoints to C for his life, with remainder to his children. Such interest could not have been conferred by A, and B's appointment is void.

84. Where the donee of a special power purports, in exercise of the power, to appoint to objects authorized by the power and also to objects not so authorized, the appointment in favour of the authorized objects shall take effect if their interests can be separated from those of the unauthorized objects.

Effect of appointment to objects, some authorized and others unauthorized.

Illustration.

Property is settled on A for life, and after his death on such of his children as he shall appoint, and in default of appointment to all A's children equally. A appoints that the property shall go after his death to his widow for her life, and after her death to two of his sons, C and D, in equal shares. There are five children of A. The appointment in favour of A's widow is invalid, and the rents and profits of the property during her life will go to all the five children in equal shares, but after her death to C and D absolutely.

85. Where the donee of a special power purports in exercise of the power to confer a larger interest than is authorized thereby, such appointment shall, if the appointee so elect, be void only for the excess, and good for the residue, if they can be separated.

Appointment in excess of power when voidable at election of appointee.

Illustrations.

(*a*). A has a life-interest in Rámnagar, with power to grant leases thereof for 30 years. A makes a lease of Rámnagar for 50 years. Such lease is good for 30 years only.

(*b*). A having a life-interest in Rámnagar and Sultánpur, with power to grant leases of Rámnagar for 21 years, grants a lease comprising both Rámnagar and Sultánpur for 21 years. After A's death the lessee may, if he thinks fit, elect to retain the lease as a lease of Rámnagar only, till the end of the 21 years.

86. Where, by an appointment under a special power, interests authorized and also interests unauthorized are created, and the interests authorized cannot be distinguished from those unauthorized, the whole is void.

Invalidity of appointment creating authorized and unauthorized interests not separable.

Illustrations.

(*a*). A fund is settled on A during his life, and after his death on his children as he shall appoint. A appoints the annual income for the benefit of his son B and his wife and children, in such manner as trustees shall think fit. The appointment is wholly void.

(*b*). Under a similar settlement, A having legitimate children by B, his wife, and others by C and D, his concubines, appoints the property to be divided among his children by B, C and D, the shares of the sons to be double those of the daughters. Here the interests authorized and unauthorized cannot be distinguished, and the appointment is wholly void.

87. When a person exercising a special power annexes to the gift a condition or qualification which is not authorized by the power, the gift is good and the condition or qualification only is void.

Appointment with unauthorized condition.

Illustrations.

(*a*). A, having a power to appoint a fund among his children, gives a part of it to his son B on condition that B shall settle it on B's children. The condition is void, and the gift is absolute.

(*b*). A, having a power to appoint a fund to a limited class of objects of whom B is one, appoints it to B, adding a condition that B shall release a debt owing to him by A, and also pay Rs. 1,000 to C. The appointment is good; but the condition is void.

88. If a beneficial interest in immoveable property and also a power to let it are given to the same person and he grants his interest in the property, he may enter into a contract not to exercise his power.

Contract not to exercise power of leasing.

89. Save as provided by section 88, an agreement or undertaking not to exercise a power which is given for the benefit of persons other than the donee is void.

Invalidity of agreement not to exercise power.

90. Where a power given for the benefit of persons other than the donee is exercised with a view to the benefit, direct or indirect, of the donee, in any mode not intended by the donor, the appointment is void.

Frauds on powers.

Illustrations.

(*a*). A, having power to appoint a fund in favour of any of her children, appoints the whole fund absolutely to one child, who has previously entered into an agreement with her to give one-half of the fund to A's husband absolutely. The appointment is void.

(*b*). A, having power to appoint a fund in favour of any of his children, appoints a portion of the fund to his son C, a minor, whom he knows to be suffering from a mortal disease; A being the person entitled to C's property in the event of his death. The appointment is void.

(*c*). A, having power to grant leases of certain settled land, exercises the power in favour of B in consideration of Rs. 1,000 paid to A by B as a fine or premium. The lease is void, and A holds the Rs. 1,000 in trust for the persons interested under the settlement.

91. If the instrument by which a power of appointment in favour of specified objects is created does not provide for the event of no appointment being made, the property belongs (subject to any appointment that may have been made) in equal shares to the said objects.

Right to property in default of appointment.

Illustration.

A settles property on B for life with remainder to B's children as he shall appoint, and makes no disposition in default of appointment. B has two children, C and D, and appoints Rs. 1,000, part of the property, to C. Then C dies. Then B dies without making any further appointment. After paying Rs. 1,000 to C or his representative, the residue of the property is divisible in equal moieties between D and the representative of C.

92. Under a power of appointment in favour of several objects, an appointment of the whole property to one or more of such objects exclusively of the others is valid;

Appointment of whole property to some only of several objects in favour of which power is given.

Provided that, where the assurance creating the power declares the minimum amount or value of the share from which no object of the power is to be excluded, the appointment shall be invalid so far as it excludes any such object from any such share, and no farther.

CHAPTER XIII.

OF PROPERTY HELD BY SEVERAL PERSONS.

93. Where property is held by more persons than one, the share of any of them having at the time of his death a beneficial heritable interest therein shall

Right to property by survivorship created only by express words.

become vested in his legal representative, unless the property is held under an instrument which expressly provides that on the death of one his share shall accrue to the survivors.

Nothing in this section applies to property belonging to an undivided Hindú family.

Illustration.

A and B jointly advance money on mortgage. A dies intestate. The money advanced by A belongs to his legal representative.

Partition of immoveable property.

94. When immoveable property is held in possession by joint owners, any one of them may institute a suit in the proper Court, and such Court may direct a partition of the property to be made among the joint owners, and for the purposes of partition may, in order to equalise the value of the shares, direct any money to be paid by one to another or to be charged on one share in favour of another.

Power to direct sale and to distribute proceeds.

If it appear to the Court that a sale of the property and a distribution of the proceeds would be more beneficial for the persons interested than a division of the property between them, the Court may, on the application of any such person, direct a sale of the property.

Power to allow person interested to bid for property sold for purpose of partition.

95. On any sale under the last preceding section, the Court may, if it think fit, allow any of the persons interested in the property to bid at the sale, on such terms as to setting-off or accounting for the purchase-money or any part thereof, or as to any other matters, as to the Court seems reasonable.

Payment into Court.

96. All sums of money paid under the two last preceding sections may if the Court think fit, be paid into Court.

Saving of laws relating to partition of revenue-paying estates.

97. Nothing in this chapter shall affect any local law for the time being in force relating to the partition of estates paying revenue to Government.

Waste by one joint-owner.

98. When one joint-owner of immoveable property commits, or threatens to commit, waste to the same without the consent of the other joint owner, that other may institute a suit to recover compensation for the injury caused to him by the waste or to obtain an injunction to stay the waste, as the case may require.

CHAPTER XIV.

OF ASSIGNMENTS OF THINGS IN ACTION.

Sale, &c., of things in action.

99. No sale or disposition of, or charge on, any debt, and no sale or disposition of, or charge on, any beneficial interest in moveable property, shall have any operation against the debtor or against the person in whom the property is vested, until notice of the sale, disposition or charge is given to him, unless he is a party to such sale, disposition or charge; and every dealing by such debtor or person, not being a party to, and not having received notice of, a sale, disposition or charge, with the debt owing by him, or with the property vested in him, shall be valid as against such sale, disposition or charge.

Illustrations.

(*a*). A owes money to B, who assigns the debt to C. B then demands the debt from A, who having no notice of the assignment, pays B. The payment is valid, and C cannot sue A for the debt.

(*b*). A has jewels deposited with B, a jeweller. A mortgages them to C. A then executes an assignment of them to D, who takes his assignment to B and gets the jewels from him before he, B, has received any notice of C's mortgage. B is justified in handing the jewels to D, and C has no remedy against D.

Notice to be in writing signed.

100. Every such notice must be in writing signed by the person making such sale, disposition or charge, or by his agent duly authorized in this behalf.

Liability of assignee of thing in action.

101. The person to whom a debt or charge is assigned shall take it subject to all the liabilities to which the assignor was subject in respect thereof at the date of the assignment.

Illustration.

(*a*). A debenture is issued in fraud of a public company to A. A sells and transfers the debenture to B, who has no notice of the fraud. The debenture is invalid in the hands of B.

Saving of negotiable instruments.

102. Nothing in this chapter applies to debts secured by negotiable instruments.

THE FIRST SCHEDULE.

(*a*). STATUTES.

Year and chapter.	Subject.	Extent of repeal.
13 Ed. I, c. 22	Waste	The whole.
31 Hen. VIII, c. 1 ...	Partition	The whole.
32 Hen. VIII, c. 62 ...	Do.	The whole.
13 Eliz., c. 5...	Fraudulent Conveyances	The whole.
27 Eliz., c. 4...	Do.	The whole.
6 Anne, c. 72	Discovery of deaths of tenants for life.	The whole.

(*b*). ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
XXIV of 1841	Illusory appointments, &c.	So far as regards illusory appointments.
X of 1865 ...	Succession ...	Illustration (*g*) to sec. 107.
IV of 1872 ...	Panjáb Laws Act ...	So far as it relates to Bengal Regulation I of 1798 and conditional sales made after this Act comes into force.
XX of 1875 ...	Central Provinces Laws Act.	So far as it relates to Bengal Regulation XVII of 1806

(*b*). ACTS OF THE GOVERNOR GENERAL IN COUNCIL,—*concluded.*

Number and year.	Subject.	Extent of repeal.
		and mortgages and conditional sales made after this Act comes into force.
XVIII of 1876	Oudh Laws Act ...	So far as it relates to Bengal Regulation XVII of 1806 and mortgages and pledges made after this Act comes into force.

(*c*). REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bengal Regulation I of 1798.	Conditional sales ...	The whole Regulation except as to conditional sales made before this Act comes into force.
Bengal Regulation XVII of 1806.	Redemption ...	The whole Regulation except as to mortgages and conditional sales made before this Act comes into force.
Bombay Regulation V of 1827.	Mortgagees in possession	Section 15 except as to mortgages and pledges made before this Act comes into force.

THE SECOND SCHEDULE.

TRANSFER ON SALE.

(*See section* 8).

This assurance is made the day of 18 , between *A B*, of , and *C D*, of . In consideration of rupees paid to me, *A B*, by *C D*, the receipt whereof I do hereby acknowledge, I, *A B*, do hereby grant all that (*description of property*) unto *C D*. In witness whereof, I have signed these presents.

(*A B*)

CHARGE.

(*a*). This assurance is made the day of 18 , between *A B*, of , and *C D*, of . I, *A B*, do hereby charge Sultánpur to *C D*, with five thousand rupees and interest at the rate of per cent. per , payable on the day of . In witness, &c.

(*b*). This assurance is made the day of 18 between *A B*, of , and *C D*, of . I, *A B*, do hereby charge Sultánpur to *C D*, with the sum which shall be due to him on the balance of my account, not exceeding rupees, together with interest thereupon at the rate of per cent. per . In witness, &c.

LEASE.

(*See section* 42).

This assurance is made the day of , between *A B*, of , and *C D*, of . I, *A B*, do hereby lease to *C D* all that (*description of property*), to hold the same from the day of for the term of at the rent of rupees, payable by equal payments on the day of and the day of in each year. In witness whereof we have, &c.

STATEMENT OF OBJECTS AND REASONS.

This Bill embodies the bulk of the rules submitted in the sixth report of the late Indian Law Commission. One of its chief objects is to bring the rules which regulate the transmission of property between living persons into harmony with the rules affecting its devolution upon death, and thus to furnish the necessary complement of the work commenced in framing the law of succession, now Act X of 1865. Another is to render more simple and efficient the law relating to mortgages and conditional sales. The expediency of legislation on this subject was affirmed by the Judicial Committee of the Privy Council in the case of *Tumbasvámi Mudali* v. *Muhammad Husain*, L. R. 2 Indian Appeals, 241. Rules are also laid down on the other subjects hereinafter mentioned.

The Bill is divided into fourteen chapters.

Preliminary.

Chapter I contains the usual preliminary matter. The repealing clause will get rid of several obsolete statutes relating to land which are still in force in the Presidency Towns and, in the case of Europeans, may possibly be in force elsewhere. The saving clause exempts from the operation of the proposed Act acquired rights and liabilities incurred before the Act comes into force, subsequently acquired rights of pre-emption, options of mortgagees to make further advances (such options exist in Malabar and possibly elsewhere), contracts of bottomry and respondentia, transfers of British ships, sales in execution of decrees or for arrears of rent or revenue.

Assurances of Immoveable Property.

Chapter II deals with assurances of immoveable property. It declares (section 4) that every person competent to contract may make an assurance of property of which he is the owner, or which he is entitled to transfer, or on which he is entitled to create a charge. It declares (sections 5, 6 and 7) that land may be conveyed (*a*) with the benefit of, or subject to, an easement: (*b*) subject to an obligation for the benefit of the public or of the neighbouring owner, or (*c*) with the reservation of any right of user, severance and removal. It lays down rules (section 8) as to the mode in which the transfer *inter vivos* of immoveable property can alone be effected, and applies (section 9) to assurances the rules of construction contained in the Succession Act. It declares (section 10) that, unless a contrary intention appears by the assurance, a grant shall be deemed to pass to the grantee all the interest which the grantor is capable of passing in the subject, and a grant of land shall be deemed to comprise trees and fixtures. Covenants running with the land are dealt with by the same section.

Sales of Immoveable Property.

The Bill then enumerates (section 11) the rights and liabilities which, in the absence of any provision to the contrary, arise in the case of a sale of land. The principal changes in the law here made are as follows: the seller will be responsible for loss caused to the buyer, or any person claiming under him, through any invalidity of the seller's title not known to the buyer when the contract was entered into and the seller's lien for unpaid purchase-money will cease as soon as the assurance is registered. Section 12 declares that, except so far as regards the vendor's lien, a contract for sale shall not of itself have the effect of creating any interest in the property sold: the Bill will thus get rid of much difficult law relating to the purchaser's equitable ownership, and the rights created by charging and assigning it. Lastly, section 13 declares that a person paying the purchase-money for any immoveable property, but having the transfer made to another, will not by reason of the payment be entitled to the property or to any interest therein. It will thus become the absolute property of the transferee, unless he is made a trustee in some way more definite than by the mere payment of the money by another person; and it is hoped that this rule will tend to prevent the litigation which arises from the doctrine of equitable presumption.

Mortgages and Charges.

Chapter IV deals with mortgages and charges. 'Mortgage' is so defined and explained as to include, besides simple mortgages, usufructuary mortgages, mortgages by conditional sale, and their combinations. The Bill declares (section 15) the respective rights of mortgagor and mortgagee on completion of a mortgage. It defines (sections 16, 17 and 18) the rights and duties of a mortgagee in possession. It shews when the mortgagor or the mortgagee may obtain an injunction to stay waste committed or threatened by the other. It provides rules (sections 19—24) as to suits for foreclosure or sale. Powers of sale given by the mortgage-deed to the mortgagee have been held void in the Mufassal: the Bill (section 24) declares them to be valid: but contains provisions for the protection of the mortgagor similar to those in 23 & 24 Vic., c. 145, ss. 11—14. It provides rules (sections 25, 26 and 27) as to suits for redemption. It contains provisions as to interest (section 28) and costs (sections 29, 30). It declares (section 31) that a deposit by a debtor of his title-deeds, shall be deemed to be only evidence of a contract for a mortgage and to entitle the creditor merely to sue for specific performance. Any person having an interest in the property charged may prevent a sale at the suit of a mortgagee (section 35) by paying off the mortgagee who requires it, and the registration of the mortgagee's receipt for the money will be sufficient without any further assurance. If the payment be made by a person having the whole interest in the property subject to the mortgage, the mortgage so paid off will (section 36) cease to exist: if the payment be made by a person not having the whole of such interest, he will acquire (section 37) the rights of the incumbrancer whom he has paid off.

The Bill abolishes the system of tacking, by declaring in sections 38 and 39 that no mortgagee paying off a prior mortgage shall thereby acquire any priority in respect of his original mortgage; that no mortgagee making a subsequent advance to the mortgagor shall thereby acquire any priority in respect of his security for such advance; and that, if the owner of two properties creates separate mortgages upon them by separate assurances, each property may be redeemed or dealt with irrespectively of the other, though the mortgages are created in favour of the same mortgagee.

It has been held that, where a mortgage extends to future advances, the mortgagee cannot safely make such advances, if he has notice of an intervening second mortgage. But the Bill (section 34) provides that, if a charge made to secure the balance of a running account expresses the maximum to be secured thereby, a second charge shall be postponed to the first charge in respect of advances not exceeding the maximum, though made subsequently to the second charge with notice thereof.

Leases.

Chapter V deals with leases of immoveable property. It lays down rules (section 43) as to the commencement and duration of leases. It states in some detail (section 44) the obligations which, in the absence of any stipulation to the contrary, are to arise out of the relationship of landlord and tenant. Special notice may be called to the provision enabling a lessee, where the lessor omits to make repairs which he is bound to make, himself to make them and

deduct the expense from the rent, and the similar provision for the case of failure on the part of the lessor to make payments, which, if not made, are recoverable against the thing leased; to the provisions binding tenants to inform their landlords of proceedings to eject, and of encroachments, and to the power of obtaining a decree for the rescission of a lease, in a suit by either party, in case of misconduct by the other.

The rules as to fixtures in section 44, clauses (*q*) and (*r*), are, it is thought, likely to prove useful. No distinction is made between ornamental, trade and agricultural fixtures, save that the landlord is given a right (resembling that conferred by 15 Vic., cap. 25, section 23) to purchase agricultural fixtures.

The rest of this chapter saves (section 45) any right to distrain possessed under any local law: provides rules (section 46) as to the duration of leases in the absence of written agreement or of local law or usage; and treats (section 47) of the effect of holding over.

Exchanges.

Chapter VI deals with Exchange or Barter. It is taken from the New York Civil Code, and merely declares that each party has the rights and obligations of a seller as to that which he gives, and those of a buyer as to that which he takes; and that, on an exchange of money, each party warrants the genuineness of the money given by him.

Settlements.

Chapter VII deals with settlements, which are defined so as to include endowments and absolute gifts to children and others, excluding, however, gifts by Natives. The Bill declares (section 50) that a settlement may be binding, though not made for a consideration. Settlements made in fraud of creditors will be voidable (section 51) at their option; but not as against persons who, without notice and for valuable consideration, have acquired interests thereunder. The English law, by which a voluntary settlor of land can by subsequent sale defeat the settlement he has made, is not perpetuated here. Conditions restraining any person from parting with his or her interest will be void (section 52), and when property is settled on a married woman, it will therefore no longer be possible to deprive her of the power of anticipation. Such power is the logical consequence of a married woman's capacity, under Act IX of 1872, to enter into contracts. The Bill also contains provisions as to making interests under settlements or wills determinable on insolvency or attempted alienation (section 53), as to the vesting of gifts in general terms (section 54), as to the vesting of a gift to an unborn person not entitled to possession immediately on birth (section 55). Various sections of the Indian Succession Act (100—104, 107, 108, 111—127, 167) are applied (section 56), so far as the nature of the case will admit, to gifts contained in settlements.

Gifts for Religious and Charitable purposes.

In accordance with the Succession Act, the Bill prohibits (section 58) persons who have near relatives from giving property to religious or charitable uses unless by an instrument executed not less than twelve months before their death and duly registered. And while allowing property to be given in perpetuity for such uses, the Bill requires (section 59) that it shall be given with the sanction of some public authority to be designated by the Government. A mode of notifying the grant or refusal of such sanction is provided. Where the sanction is refused, the property will devolve as if the gift had not been made.

Apportionment.

Chapter IX consists of a single section (60) treating of the apportionment of rents and other periodical payments.

Rights and Liabilities of limited Owners.

In Chapter X, the Bill abolishes the distinction between limited owners with, and those without, impeachment of waste. Such persons (section 61) will not be entitled to do any act destructive or permanently injurious to the property; but it is explained that no act done in the reasonable enjoyment of property (such, for example, as working a mine) is 'destructive' or 'injurious,' though it may exhaust the substance of the property. The power of such persons and their representatives to remove fixtures will be the same as that given to tenants under a lease. Persons having limited interests in possession will be bound (section 62) to discharge periodical payments due under prior mortgages and also taxes and other public periodical charges. The right to increase in the value of property in which there are successive interests is declared (section 63); and a provision (resembling that made by 6 Anne, chapter 72, section 1) is made for the production of tenants for life, when the remainder-man has reason to suspect fraud.

Leases and Sales of settled Estates.

Chapter XI is suggested by the English Statute 19 & 20 Vic., cap. 20. It gives the Courts (here defined to mean only the High Courts and the District Courts) a power to deal with lands subject to a settlement or will, by lease or sale, or by appropriating any part of the property for the formation of streets, roads, gardens, tanks, &c. The various modes in which the proceeds of the sales or leases may be applied are specified.

Powers.

Chapter XII treats of powers, *i. e.*, rights to determine the disposition of property otherwise than by virtue of ownership. It reproduces the principal rules of the English law on the subject. But the Bill does not propose to give the Courts power to aid defective executions of powers. This jurisdiction does not rest on any sound principle, and is, indeed, hardly consistent with a strict system of registration. In the case of the exercise of a power given to several donees some of whom die before it has been fully exercised, the Bill declares (section 74) that the survivors may do all that might have been done by the whole number. An analogous declaration is made (section 77) as to a power exercisable with the consent of several persons.

Property held by several Persons.

Chapter XIII contains some rules as to the devolution of shares of several persons holding the same property. The Bill proposes to declare that a right by survivorship can be created only by express words. This chapter also contains some provisions (sections 94, 95, 96) as to partitions of immoveable property, which may be useful in cases to which no local law as to the partition of revenue-paying estates applies. In case of illegal waste by one of several persons holding the same property, power is given (section 98) to sue for compensation or to obtain an injunction.

Assignments of Things in Action.

Chapter XIV deals with the assignment of debts and other things which are not in the possession of the person entitled to them, but for the recovery of which he may be obliged to sue. The only change proposed to be made in what is now the law in all Indian Courts is, that the Bill requires (section 99) the assignee to complete his title by giving the debtor notice in writing of the assignment. Negotiable instruments are excluded from the operation of this chapter.

The subject of the Bill is one of great difficulty and complexity, and errors will doubtless be found in the present draft. Ample time will be given for the searching criticism which it is hoped the draft will receive at the hands of the Local Governments, the Judges and the legal profession.

SIMLA,
The 10th May 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 28, 1877. { Register No. 53.

☞ 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 26th July 1877, and was referred to a Select Committee :—

No. 14 OF 1877.

THE PANJA'B COURTS' BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of Acts.
3. Interpretation-clause.

CHAPTER II.

OF THE CONSTITUTION OF THE COURTS.

4. Grades of Courts.
5. Constitution of Chief Court and appointment and tenure of Judges.
6. Rank and precedence of Judges of Chief Court.
7. Certain powers to be exercised *ex officio*.
8. Assistant Commissioner or Tahsíldár may be invested with higher powers.
9. Any person may be invested with certain powers.
10. Exercise of such powers by benches.
11. Persons and benches exercising such powers to be deemed Courts of corresponding grades.
12. Such powers where and in what cases to be exercised.
13. Power to alter local limits of jurisdiction.

CHAPTER III.

OF THE JURISDICTION AND POWERS OF THE CHIEF COURT.

14. Civil appeals from subordinate Courts.
15. Criminal appellate and revisional jurisdiction.
    Power to try European British subjects.
16. Power to withdraw and try, or to transfer suits.
17. Appeals from original jurisdiction of Chief Court.
18. Limitation of such appeals.
19. Delegation of powers to its members.
    Proviso.
20. Rule of decision when Judges differ.
21. Power to refer question to full bench.
22. Power to appoint ministerial officers.
23. Powers and duties of such officers.
24. Suspension and dismissal of such officers.

SECTIONS.

25. Superintendence and control of subordinate Courts.
26. Power to make rules as to petition-writers.
27. Power to make rules as to other matters.
28. Registers, books, accounts and statements to be kept and furnished by Chief Court.

CHAPTER IV.

OF THE JURISDICTION AND POWERS OF THE SUBORDINATE CIVIL COURTS.

29. Controlling powers of Commissioners and Deputy Commissioners.
30. Powers of Commissioner.
31. Principal Court of original jurisdiction.
32. No pecuniary limits to jurisdiction of Deputy Commissioner.
Pecuniary limits of jurisdiction of other Courts.
33. Powers of Courts of Commissioner and Deputy Commissioner.
34. Power to distribute business.
35. Ministerial officers of subordinate Courts.
36. Power to fine ministerial officers.

CHAPTER V.

OF APPELLATE JURISDICTION.

37. First appeals.
38. When Commissioner and Chief Court may receive second appeal.
39. Modification of Code of Civil Procedure, sections 584, 586.
40. Period of limitation.
41. Power to withdraw and try or to transfer appeal.
42. Judges not to try certain suits and appeals.

CHAPTER VI.

OF ADVOCATES AND PLEADERS.

43. Who may plead, &c., in the Courts.
44. Power to make rules regarding pleaders.
45. Power to withdraw or suspend permission to appear, &c., in Courts.
46. Power to fix pleaders' fees as between parties.

CHAPTER VII.

MISCELLANEOUS.

47. Code of Civil Procedure to apply to scheduled districts in Panjáb.
48. Rules when to have force of law.
49. Local Government may transfer power conferred by section 25, to a single Judge.
SECTIONS.
50. Power to invest Settlement Officers with powers of Civil Court in certain cases.
51. Power to alter subordination of Courts for purposes of section 50.

SCHEDULE.

A Bill to consolidate and amend the law relating to Courts in the Panjáb.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in the Panjáb; and whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Panjáb Courts' Act, 1877:"

Local extent.

It extends to all the territories for the time being under the administration of the Lieutenant-Governor of the Panjáb;

Commencement.

And it shall come into force on such day as the Local Government may, by notification in the Official Gazette, appoint in this behalf.

Repeal of Acts.

2. On and from that day the Acts mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

But all Courts constituted, appointments made, rules and forms prescribed, orders, directions and licenses issued and powers conferred under any of the said Acts, shall, as far as may be, be deemed to have been respectively constituted, made, prescribed, issued and conferred under this Act.

Interpretation-clause.

3. In this Act unless there be something repugnant in the subject or context, "Assistant Commissioner" includes Extra Assistant Commissioner, and "Tahsíldár" includes Munsif.

CHAPTER II.

OF THE CONSTITUTION OF THE COURTS.

Grades of Courts.

4. Besides the Courts established under any other enactment for the time being in force, there shall be eight grades of Courts (namely):—

(1) the Chief Court;

(2) the Court of the Commissioner;

(3) the Court of the Deputy Commissioner;

(4) the Court of the Assistant Commissioner with full powers;

(5) the Court of the Assistant Commissioner with special powers;

(6) the Court of the Assistant Commissioner with ordinary powers;

(7) the Court of the Tahsíldár with special powers; and

(8) the Court of the Tahsíldár with ordinary powers.

Constitution of Chief Court and appointment and tenure of Judges.

5. The Chief Court shall consist of three or more Judges, who shall be appointed by the Governor General in Council, and shall hold their offices during his pleasure, and of whom one at least shall always be a barrister of not less than five years' standing.

Rank and precedence of Judges of Chief Court.

6. The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges.

Certain powers to be exercised *ex officio*.

7. Every person appointed by the Local Government to be or to act as a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsíldár shall, in the division, district or tahsíl to which he may from time to time be posted, have the powers of a Court of a Commissioner, a Deputy Commissioner, an Assistant Commissioner with ordinary powers, or a Tahsíldár with ordinary powers, as the case may be.

Assistant Commissioner or Tahsíldár may be invested with higher powers.

8. The Local Government may from time to time confer upon any Assistant Commissioner the powers of an Assistant Commissioner with full powers, or of an Assistant Commissioner with special powers, or upon any Tahsíldár the powers of a Tahsíldár with special powers, and may withdraw any powers so conferred.

Any Assistant Commissioner or Tahsíldár invested with powers under this section may exercise such powers in any district or tahsíl, as the case may be, to which he may from time to time be posted.

Any person may be invested with certain powers.

9. The Local Government may from time to time confer upon any person all or any of the powers of a Court of any of the seven grades last mentioned in section four, and may withdraw any powers so conferred.

Exercise of such powers by benches.

10. The Local Government may direct that any three persons invested with powers of the same description under section nine, shall exercise such powers sitting together as a bench and not otherwise.

When such persons sit together as a bench, the decision of the majority of them shall be deemed to be the decision of the bench.

Persons and benches exercising such powers to be deemed Courts of corresponding grades.

11. Except for the purposes of exercising control over any other Court, any person or any bench exercising the powers of a Court of any grade under section nine or section ten shall be deemed to be a Court of such grade for all the purposes of this Act.

Such powers where and in what cases to be exercised.

12. Any person or bench invested under section eight, nine or ten with the powers of a Court of any grade, shall exercise such powers and discharge the functions of such Court within such local limits, and in such classes of cases, as the Local Government may from time to time direct.

Power to alter local limits of jurisdiction.

13. The Local Government may from time to time, by notification in the official Gazette, fix the local limits of the jurisdiction of any Court of any of the seven grades last mentioned in section four.

CHAPTER III.

OF THE JURISDICTION AND POWERS OF THE CHIEF COURT.

Civil appeals from subordinate Courts.

14. The Chief Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Criminal appellate and revisional jurisdiction.

Power to try European British subjects.

15. The Chief Court shall be the highest Court of Criminal appeal or revision in the said territories, and shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial.

Power to withdraw and try or to transfer suits.

16. The Chief 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 or other civil proceeding instituted in any Court under its superintendence or control, and try or dispose of such suit or proceeding itself, or transfer the same for trial or disposal to any other Court under its superintendence or control and competent to try or dispose of such suit or proceeding in respect of its nature and the amount or value of its subject-matter.

Appeals from original jurisdiction of Chief Court.

17. Except as otherwise provided by any law for the time being in force, an appeal shall lie from any decree or order passed or made by the Chief Court—

(*a*) in exercise of the original jurisdiction conferred by section sixteen; or

(*b*) in exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section;

Provided that such appeal shall lie only in the cases and in manner following (that is to say):

(*c*) when such decree or order is made by a single Judge, an appeal shall lie, either to a bench consisting of two other Judges, or to the full bench, as the Court may, by general rule or special order from time to time, direct;

(*d*) when such decree or order is made by a bench of Judges not being the full bench, and such Judges differ in opinion, the appeal shall lie from such decree or order to the full bench.

Limitation of such appeals.

18. In the Indian Limitation Act, 1877, Schedule II, Nos. 151 and 162, after the word "Bombay" the following words shall be inserted (namely): "or the Chief Court of the Panjáb."

Delegation of powers to its members.

19. Except as herein or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide in such manner as it thinks fit for the exercise by one or more of its Judges of any powers conferred on it by this Act, or by any other enactment for the time being in force:

Proviso.

Provided that no decree, order, sentence or decision of any Court shall be reversed by any Judge of the Chief Court sitting alone.

Rule of decision when Judges differ.

20. When there is a difference of opinion among the Judges composing any bench of the Chief Court on any question arising before such Judges in the exercise by them of any powers conferred on such Court by this Act, or by any other enactment for the time being in force, such question shall, except as otherwise provided by any enactment for the time being in force, be decided as follows, that is to say:—

If the number of such Judges concurring in one opinion upon such question is larger than the number holding any other opinion upon such question, the decision shall be in accordance with the opinion of such larger number.

If the numbers of such Judges holding respectively two or more opinions on such question are equal, the following rules shall be observed, that is to say:—

(*a*) if such bench is the full bench, or is exercising any original jurisdiction to which section seventeen applies or is extended, the decision upon such question shall be in accordance with such one of these opinions as is held by the Judge who has precedence under section six;

(*b*) in other cases the bench before which such question has arisen shall refer the same to the full bench, and the full bench shall decide the same in accordance with the rules hereinbefore contained, and the case in which such question has arisen shall be disposed of by the bench referring such question in accordance with the decision of the full bench thereon.

Power to refer question to full bench.

21. Any single Judge of the Chief Court or any bench of Judges of such Court (not being the full bench) exercising any powers conferred on the Chief Court by this Act or by any other enactment for the time being in force, may refer for the decision of the full bench any question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence arising before such Judge or bench of Judges.

Any Judge or bench making a reference on any question in any case under this section, shall dispose of such case in accordance with the decision of the full bench on such question.

Power to appoint ministerial officers.

22. The Chief Court may from time to time, with the sanction of the Local Government, appoint a Registrar and Deputy Registrar and such other ministerial officers as may be necessary for the administration of justice by such Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act.

Powers and duties of such officers.

23. The officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the Chief Court may from time to time direct.

Suspension and dismissal of such officers.

24. Any such officer may be suspended or dismissed from his office by order of the Chief Court: Provided that neither the Registrar nor the Deputy Registrar shall be dismissed without the previous sanction of the Local Government.

Superintendence and control of subordinate Courts.

25. The general superintendence over all Courts of the seven grades last mentioned in section four and over all Courts of Small Causes shall be vested in, and such Courts shall be subordinate to, the Chief Court.

Power to make rules as to petition-writers.

26. The Chief Court may from time to time make rules—

(*a*) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Panjáb;

(*b*) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section and having the force of law shall be liable, on conviction before a Deputy Commissioner, to a fine which may extend to fifty rupees.

Power to make rules as to other matters.

27. The Chief Court may from time to time—

(*a*) make rules consistent with this Act conferring and imposing on the ministerial officers of the Courts subject to its superintendence, such powers and duties of a ministerial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(*b*) make rules consistent with this Act to determine in what cases pleaders practising in such Courts shall be permitted to address such Courts in English;

(*c*) prescribe forms of seals to be used by such Courts;

(*d*) prescribe forms for such books, entries, statistics and accounts as it thinks necessary should be kept, made or compiled in such Courts or submitted to any authority;

(*e*) make rules consistent with this Act, providing for the inspection of such Courts and the supervision of the working thereof;

(*f*) make such rules consistent with this Act, institute such inquiries and submit such recommendations to the Local Government as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of such Courts and maintaining proper discipline among such officers.

Registers, books, accounts and statements to be kept and furnished by Chief Court.

28. The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Local Government such of the same registers, books and accounts and statements of the work done in the Court, as may from time to time be required by the said Government.

The Chief Court shall also comply with such requisitions as may from time to time be made by the Governor General in Council or by the Local Government for certified copies of, or extracts from, the records of the Court.

CHAPTER IV.

OF THE JURISDICTION AND POWERS OF THE SUBORDINATE CIVIL COURTS.

Controlling powers of Commissioners and Deputy Commissioners.

29. Subject to the general superintendence of the Chief Court,

every Commissioner shall control (*a*) the Courts of all Deputy Commissioners, (*b*) the Courts of all persons invested under section nine with the powers of a Commissioner within his division, and (*c*) the Courts controlled by the Deputy Commissioners within his division, and

every Deputy Commissioner shall control (*a*) all Courts of the five grades last mentioned in section four and all Courts of Small Causes, and (*b*) all Courts of persons invested under section nine with the powers of a Deputy Commissioner within his district.

Powers of Commissioner.

30. The Commissioner shall have the powers conferred by the next two following sections on each of the Courts of the Deputy Commissioners subject to his control.

Principal Court of original jurisdiction.

31. The Court of the Deputy Commissioner of a district shall be deemed for the purposes of all enactments for the time being in force to be the District Court or principal Civil Court of original jurisdiction in such district.

No pecuniary limits to jurisdiction of Deputy Commissioner.

32. Except as otherwise provided by any enactment for the time being in force,

(*a*) the Court of the Deputy Commissioner shall have jurisdiction for the adjudication of original civil suits without limit as regards the amount or value of the subject-matter of such suits, and

Pecuniary limits of jurisdiction of other Courts.

(*b*) each of the Courts mentioned in the first column of the subjoined table shall have jurisdiction for the adjudication of such suits when such amount or value does not exceed the limit prescribed for such Court in the second column of the said table:

Court.	Limit of jurisdiction.
	Rs.
(*a*) The Court of the Assistant Commissioner with full powers ...	10,000
(*b*) The Court of the Assistant Commissioner with special powers ...	500
(*c*) The Court of the Assistant Commissioner with ordinary powers ...	100
(*d*) The Court of the Tahsíldár with special powers	300
(*e*) The Court of the Tahsíldár with ordinary powers	50

Powers of Courts of Commissioner and Deputy Commissioner.

33. The Court of any Commissioner or Deputy Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial, disposal and transfer as are conferred by section sixteen on the Chief 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.

Power to distribute business.

34. Notwithstanding anything contained in the Code of Civil Procedure, every Commissioner and Deputy Commissioner may by written order direct that any civil business cognizable by his Court and the Courts under his control (including the execution of decrees) shall be distributed among such Courts in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any jurisdiction in any suit of which the amount or value of the subject-matter exceeds its proper jurisdiction:

Provided also that no such direction shall be inconsistent with any direction or notification issued by the Local Government under section twelve or thirteen.

Ministerial officers of subordinate Courts.

35. The ministerial officers of the Courts of the Commissioners, Deputy Commissioners and Courts of Small Causes shall be appointed, and may be suspended and dismissed, by the Judges of those Courts respectively, whose orders in such matters shall, in the case of a Commissioner, be final, and, in the case of a Deputy Commissioner and the Judge of a Court of Small Causes, be subject to the general control of the Commissioner.

The ministerial officers of all Courts controlled by a Deputy Commissioner other than a Court of Small Causes shall be appointed, and may be suspended and dismissed, by the Deputy Commissioner, but subject to the general control of the Commissioner.

Every appointment under this section shall be made subject to such rules as the Local Government from time to time prescribes in this behalf.

Every person appointed under this section shall exercise such powers and perform such duties as

may from time to time be conferred and imposed upon him by the Chief Court.

The present ministerial officers of the Courts subordinate to the Chief Court shall be deemed to have been appointed under this section.

Power to fine ministerial officers.

36. Every Court under the control of a Deputy Commissioner may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order made by any such Court other than a Court of Small Causes; and may of his own motion remove, suspend from office or fine up to the amount of one month's salary any ministerial officer of any Court under his control other than a Court of Small Causes.

Any Commissioner or Deputy Commissioner and the Judge of any Court of Small Causes may fine any ministerial officer of his Court in an amount not exceeding one month's salary.

CHAPTER V.

OF APPELLATE JURISDICTION.

First appeals.

37. When by any law for the time being in force an appeal is allowed from any decree or order passed or made by a Civil Court of original jurisdiction, and no provision applicable to the territories to which this Act extends is made by such law for determining the Court to which such appeal shall lie, such appeal shall lie as follows, that is to say—

(*a*) when such decree or order is passed or made by the Court of a Tahsíldár or of an Assistant Commissioner with special or ordinary powers—to the Court of the Deputy Commissioner;

(*b*) when such decree or order is passed or made by the Court of an Assistant Commissioner with full powers or of a Deputy Commissioner—to the Court of the Commissioner;

(*c*) when such decree or order is passed or made by the Court of a Commissioner—to the Chief Court.

When Commissioner and Chief Court may receive second appeal.

38. When the decision of the Court of a Deputy Commissioner or Commissioner passed in appeal under section thirty-seven reverses or modifies the decree or order of the Court of original jurisdiction, and is not declared by any law for the time being in force to be final, the Court of the Commissioner, when such decision has been passed by the Court of a Deputy Commissioner, and the Chief Court, when such decision has been passed by the Court of a Commissioner, may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice.

Modification of Code of Civil Procedure, sections 584, 586.

39. The following clause shall be added to the Code of Civil Procedure, section 584:—

"(*d*) the existence or non-existence, validity or invalidity, of a custom alleged to have the force of law."

The words "second appeal" in the same section shall be deemed to include an appeal against the order of the Court of a Commissioner passed under section thirty-eight of this Act.

In modification of the Code of Civil Procedure, section 586, a second appeal may be received under section thirty-six in any suit of the nature cognizable in Courts of Small Causes when the amount or value of the subject-matter of the original suit is less than five hundred rupees: Provided that no such appeal shall lie when such amount or value does not exceed the sum of fifty rupees.

Period of limitation.

40. The period of limitation for an appeal under section thirty-seven, thirty-eight or thirty-nine shall run from the date of the decree, order or decision appealed against, and shall be as follows, that is to say:—

(*a*) when such appeal lies to the Court of a Deputy Commissioner or Commissioner—sixty days;

(*b*) when such appeal lies to the Chief Court—ninety days.

In computing such periods of sixty and ninety days, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

Power to withdraw and try or to transfer appeal.

41. Any Civil 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 civil appeal pending in any Court under its superintendence or control, and try such appeal itself or transfer the same for trial to any other Court under its superintendence or control and of a grade equal or superior to that of the Court from which such appeal is withdrawn.

Judges not to try certain suits and appeals.

42. No Judge of any Court constituted under this Act shall try any suit or appeal to or in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

When any such suit, appeal or proceeding comes before him he shall forthwith transmit the record of the case to the Chief Court with a report of the circumstances attending the reference. The Chief Court shall thereupon dispose of the case in the manner prescribed by section fifteen of the Code of Civil Procedure.

CHAPTER VI.

OF ADVOCATES AND PLEADERS.

Who may plead, &c., in the Courts.

43. Notwithstanding anything contained in the Pleaders, Mukhtárs and Revenue Agents Act, 1865, sections 45 and 46, no person shall appear, plead or act on behalf of another in any Court constituted under this Act unless with the permission of the Chief Court.

Power to make rules regarding pleaders.

44. The Chief Court may from time to time make rules to regulate the following matters:—

(*a*) applications for permission to appear, plead or act in all or any of the Courts constituted under this Act;

(*b*) the form in which such permission shall be granted.

Power to withdraw or suspend permission to appear, &c., in Courts.

45. The Chief Court may at any time, for sufficient reason, withdraw any permission granted under this chapter, or suspend the operation of the same.

Power to fix pleaders' fees as between parties.

46. The Chief Court may from time to time by general order in writing fix and regulate the fees which shall be payable upon all proceedings in such Court by any party in respect of the fees of his adversary's pleader.

CHAPTER VII.

MISCELLANEOUS.

Code of Civil Procedure to apply to scheduled Districts in Panjáb.

47. The Code of Civil Procedure, as modified by this Act, shall apply to all the territories for the time being under the administration of the Lieutenant Governor of the Panjáb.

Rules when to have force of law.

48. All rules made under section twenty-six and section twenty-seven, clauses (*b*) and (*c*), shall be submitted for sanction to the Local Government, and, on receiving such sanction, shall be published in the official Gazette, and shall thereupon, have the force of law.

Local Government may transfer power conferred by section 25, to a single Judge.

49. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, appoint a single Judge of the Chief Court to exercise the power of superintendence conferred on such Court by section twenty-five, and may cancel such notification.

While such notification continues in force, such power shall be exercised by the Judge appointed thereby and not otherwise.

Power to invest settlement officers with powers of Civil Courts in certain cases.

50. The Local Government may from time to time, by notification in the official Gazette, declare that a settlement of land-revenue is in progress in any local area, and invest any officer making or controlling such settlement with all or any of the powers of any Court constituted under this Act for the purpose of trying all or any specified class of suits and appeals relating to land, or the rent, revenue or produce of such land, arising in such local area.

The publication of any notification under this section shall be conclusive evidence that a settlement of land-revenue is in progress in the local area to which the notification refers.

The Local Government may cancel any such notification.

While such notification continues in force, such powers shall be exercised by the officers so invested and not otherwise.

Provided that the Local Government may by order published in the official Gazette direct that any jurisdiction with which any officer may have been invested by such notification shall be exercised solely by the Civil Court by which such jurisdiction would have been exercised if such notification had not been published.

Provided also that any cases pending before any officer under such notification when it is cancelled may, notwithstanding such cancellation, be disposed of by him as if it continued in force, unless the Local Government directs (as it is hereby empowered to do) that such cases shall be transferred for disposal to the Court by which they would have been disposed of if such notification had not been published.

Explanation.—In this section "land" means land assessed to the land-revenue or whereof the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, and all land the property of Government not within the site of any town or village.

Power to alter subordination of Courts for purposes of section 50.

51. For the purposes of section 50 the Local Government may, notwithstanding anything herein contained, from time to time direct that any of the Courts hereinbefore mentioned (except the Chief Court) shall, in respect of any specified class of cases, be subordinate to or subject to the control or superintendence of any authority other than those herein specified.

SCHEDULE.

(*See section* 2.)

ACTS REPEALED.

Number and year of Act.	Title or subject.	Extent of repeal.
XIX of 1865	An Act to define the jurisdiction of the Courts of Judicature of the Panjáb and its Dependencies.	So much as has not been repealed.
IV of 1866	An Act to amend the constitution of the Chief Court of Judicature in the Panjáb and its Dependencies.	So much as has not been repealed.
XXVII of 1867	An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to distribute the business in subordinate Courts.	The whole.
III of 1868	An Act to authorize the Local Government of the Panjáb to invest any person with the powers of an Assistant Commissioner or Tahsíldár.	So much as has not been repealed.
IX of 1873	An Act to prolong the law relating to Appeals and Reviews of Judgment in the Panjáb.	So much as has not been repealed.
V of 1874	An Act to invest the Assistant Commissioner in charge of the Kullu sub-division of the Kángra District with certain appellate powers.	So much as has not been repealed.
XIX of 1875	An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.	The whole.

STATEMENT OF OBJECTS AND REASONS.

This Bill is intended to be mainly a consolidation measure, bringing within a shorter compass and reducing into convenient order the provisions relating to the Chief Court and the subordinate Civil Courts of the Panjáb, which are at present scattered through several enactments passed between the years 1865 and 1875. It proposes, however, to introduce some changes which the experience of the working of those Courts now obtained appear to render desirable.

2. The power to make rules as to petition-writers conferred by section 26 is considered necessary, as at present, owing to the inability of the Courts to control these persons, great abuses and great loss to litigants are found to result.

3. Provision has been made (section 35) as to the appointment, suspension and removal of the ministerial officers of subordinate Courts, and power has been given to fine them.

4. The existence or non-existence, validity or invalidity of a custom alleged to have the force of law is added (section 39) to the grounds on which a second appeal may be brought under the Code of Civil Procedure, section 584, and a second appeal will lie in Small Cause cases when the amount or value of the subject-matter of the original suit is less than Rs. 500, but not less than Rs. 50.

5. Section 43 removes a doubt which has been felt as to the power of the Chief Court to exclude certain classes of legal practitioners from pleading and acting in the Civil Courts of the Province. It places the Chief Court in this respect on the same footing as the High Courts established by Royal Charter.

6. Section 49, giving the Local Government power to vest the administrative control of the subordinate Courts in a single Judge of the Chief Court, has been inserted at the instance of the late Lieutenant-Governor. He considered that although the Judges of the Chief Court had in every way endeavoured, and with considerable success, to improve the judicial service of the province, and had in this direction done all in their power to strengthen the hands of the Local Government, yet so much efficiency could not be attained as when the responsibility for supervision rested with a single Judge. This change will practically give one of the Judges the powers formerly exercised by the Judicial Commissioner in the Panjáb.

SIMLA; *The 28th June* 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 4, 1877. Register No. 53.

☞ 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 26th July 1877, and was referred to a Select Committee:—

No. 14 OF 1877.

THE PANJA'B COURTS' BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of Acts.
3. Interpretation-clause.

CHAPTER II.

OF THE CONSTITUTION OF THE COURTS.

4. Grades of Courts.
5. Constitution of Chief Court and appointment and tenure of Judges.
6. Rank and precedence of Judges of Chief Court.
7. Certain powers to be exercised *ex officio*.
8. Assistant Commissioner or Tahsíldár may be invested with higher powers.
9. Any person may be invested with certain powers.
10. Exercise of such powers by benches.
11. Persons and benches exercising such powers to be deemed Courts of corresponding grades.
12. Such powers where and in what cases to be exercised.
13. Power to alter local limits of jurisdiction.

CHAPTER III.

OF THE JURISDICTION AND POWERS OF THE CHIEF COURT.

14. Civil appeals from subordinate Courts.
15. Criminal appellate and revisional jurisdiction.
    Power to try European British subjects.
16. Power to withdraw and try, or to transfer suits.
17. Appeals from original jurisdiction of Chief Court.
18. Limitation of such appeals.
19. Delegation of powers to its members.
    Proviso.
20. Rule of decision when Judges differ.
21. Power to refer question to full bench.
22. Power to appoint ministerial officers.
23. Powers and duties of such officers.
24. Suspension and dismissal of such officers.

SECTIONS.

25. Superintendence and control of subordinate Courts.
26. Power to make rules as to petition-writers.
27. Power to make rules as to other matters.
28. Registers, books, accounts and statements to be kept and furnished by Chief Court.

CHAPTER IV.

OF THE JURISDICTION AND POWERS OF THE SUBORDINATE CIVIL COURTS.

29. Controlling powers of Commissioners and Deputy Commissioners.
30. Powers of Commissioner.
31. Principal Court of original jurisdiction.
32. No pecuniary limits to jurisdiction of Deputy Commissioner.
Pecuniary limits of jurisdiction of other Courts.
33. Powers of Courts of Commissioner and Deputy Commissioner.
34. Power to distribute business.
35. Ministerial officers of subordinate Courts.
36. Power to fine ministerial officers.

CHAPTER V.

OF APPELLATE JURISDICTION.

37. First appeals.
38. When Commissioner and Chief Court may receive second appeal.
39. Modification of Code of Civil Procedure, sections 584, 586.
40. Period of limitation.
41. Power to withdraw and try or to transfer appeal.
42. Judges not to try certain suits and appeals.

CHAPTER VI.

OF ADVOCATES AND PLEADERS.

43. Who may plead, &c., in the Courts.
44. Power to make rules regarding pleaders.
45. Power to withdraw or suspend permission to appear, &c., in Courts.
46. Power to fix pleaders' fees as between parties.

CHAPTER VII.

MISCELLANEOUS.

47. Code of Civil Procedure to apply to scheduled districts in Panjáb.
48. Rules when to have force of law.
49. Local Government may transfer power conferred by section 25, to a single Judge.

SECTIONS.

50. Power to invest Settlement Officers with powers of Civil Court in certain cases.
51. Power to alter subordination of Courts for purposes of section 50.

SCHEDULE.

A Bill to consolidate and amend the law relating to Courts in the Panjáb.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in the Panjáb; and whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Panjáb Courts' Act, 1877:" Short title.

It extends to all the territories for the time being under the administration of the Lieutenant-Governor of the Panjáb; Local extent.

And it shall come into force on such day as the Local Government may, by notification in the Official Gazette, appoint in this behalf. Commencement.

2. On and from that day the Acts mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column thereof. Repeal of Acts.

But all Courts constituted, appointments made, rules and forms prescribed, orders, directions and licenses issued and powers conferred under any of the said Acts, shall, as far as may be, be deemed to have been respectively constituted, made, prescribed, issued and conferred under this Act.

3. In this Act unless there be something repugnant in the subject or context, "Assistant Commissioner" includes Extra Assistant Commissioner, and "Tahsíldár" includes Munsif. Interpretation-clause.

CHAPTER II.

OF THE CONSTITUTION OF THE COURTS.

4. Besides the Courts established under any other enactment for the time being in force, there shall be eight grades of Courts (namely):— Grades of Courts.

(1) the Chief Court;

(2) the Court of the Commissioner;

(3) the Court of the Deputy Commissioner;

(4) the Court of the Assistant Commissioner with full powers;

(5) the Court of the Assistant Commissioner with special powers;

(6) the Court of the Assistant Commissioner with ordinary powers;

(7) the Court of the Tahsíldár with special powers; and

(8) the Court of the Tahsíldár with ordinary powers.

5. The Chief Court shall consist of three or more Judges, who shall be appointed by the Governor General in Council, and shall hold their offices during his pleasure, and of whom one at least shall always be a barrister of not less than five years' standing. Constitution of Chief Court and appointment and tenure of Judges.

6. The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges. Rank and precedence of Judges of Chief Court.

7. Every person appointed by the Local Government to be or to act as a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsíldár shall, in the division, district or tahsíl to which he may from time to time be posted, have the powers of a Court of a Commissioner, a Deputy Commissioner, an Assistant Commissioner with ordinary powers, or a Tahsíldár with ordinary powers, as the case may be. Certain powers to be exercised *ex officio*.

8. The Local Government may from time to time confer upon any Assistant Commissioner the powers of an Assistant Commissioner with full powers, or of an Assistant Commissioner with special powers, or upon any Tahsíldár the powers of a Tahsíldár with special powers, and may withdraw any powers so conferred. Assistant Commissioner or Tahsíldár may be invested with higher powers.

Any Assistant Commissioner or Tahsíldár invested with powers under this section may exercise such powers in any district or tahsíl, as the case may be, to which he may from time to time be posted.

9. The Local Government may from time to time confer upon any person all or any of the powers of a Court of any of the seven grades last mentioned in section four, and may withdraw any powers so conferred. Any person may be invested with certain powers.

10. The Local Government may direct that any three persons invested with powers of the same description under section nine, shall exercise such powers sitting together as a bench and not otherwise. Exercise of such powers by benches.

When such persons sit together as a bench, the decision of the majority of them shall be deemed to be the decision of the bench.

11. Except for the purposes of exercising control over any other Court, any person or any bench exercising the powers of a Court of any grade under section nine or section ten shall be deemed to be a Court of such grade for all the purposes of this Act. Persons and benches exercising such powers to be deemed Courts of corresponding grades.

12. Any person or bench invested under section eight, nine or ten with the powers of a Court of any grade, shall exercise such powers and discharge the functions of such Court within such local limits, and in such classes of cases, as the Local Government may from time to time direct. Such powers where and in what cases to be exercised.

13. The Local Government may from time to time, by notification in the official Gazette, fix the local limits of the jurisdiction of any Court of any of the seven grades last mentioned in section four. Power to alter local limits of jurisdiction.

CHAPTER III.

OF THE JURISDICTION AND POWERS OF THE CHIEF COURT.

14. The Chief Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends. Civil appeals from subordinate Courts.

15. The Chief Court shall be the highest Court of Criminal appeal or revision in the said territories, and shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial. Criminal appellate and revisional jurisdiction.

Power to try European British subjects.

16. The Chief 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 or other civil proceeding instituted in any Court under its superintendence or control, and try or dispose of such suit or proceeding itself, or transfer the same for trial or disposal to any other Court under its superintendence or control and competent to try or dispose of such suit or proceeding in respect of its nature and the amount or value of its subject-matter. Power to withdraw and try or to transfer suits.

17. Except as otherwise provided by any law for the time being in force, an appeal shall lie from any decree or order passed or made by the Chief Court— Appeals from original jurisdiction of Chief Court.

(*a*) in exercise of the original jurisdiction conferred by section sixteen; or

(*b*) in exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section:

Provided that such appeal shall lie only in the cases and in manner following (that is to say):

(*c*) when such decree or order is made by a single Judge, an appeal shall lie, either to a bench consisting of two other Judges, or to the full bench, as the Court may, by general rule or special order from time to time, direct;

(*d*) when such decree or order is made by a bench of Judges not being the full bench, and such Judges differ in opinion, the appeal shall lie from such decree or order to the full bench.

Limitation of such appeals.

18. In the Indian Limitation Act, 1877, Schedule II, Nos. 151 and 162, after the word "Bombay" the following words shall be inserted (namely): "or the Chief Court of the Panjáb."

Delegation of powers to its members.

19. Except as herein or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide in such manner as it thinks fit for the exercise by one or more of its Judges of any powers conferred on it by this Act, or by any other enactment for the time being in force:

Proviso.

Provided that no decree, order, sentence or decision of any Court shall be reversed by any Judge of the Chief Court sitting alone.

Rule of decision when Judges differ.

20. When there is a difference of opinion among the Judges composing any bench of the Chief Court on any question arising before such Judges in the exercise by them of any powers conferred on such Court by this Act, or by any other enactment for the time being in force, such question shall, except as otherwise provided by any enactment for the time being in force, be decided as follows, that is to say:—

If the number of such Judges concurring in one opinion upon such question is larger than the number holding any other opinion upon such question, the decision shall be in accordance with the opinion of such larger number.

If the numbers of such Judges holding respectively two or more opinions on such question are equal, the following rules shall be observed, that is to say:—

(*a*) if such bench is the full bench, or is exercising any original jurisdiction to which section seventeen applies or is extended, the decision upon such question shall be in accordance with such one of these opinions as is held by the Judge who has precedence under section six;

(*b*) in other cases the bench before which such question has arisen shall refer the same to the full bench, and the full bench shall decide the same in accordance with the rules hereinbefore contained, and the case in which such question has arisen shall be disposed of by the bench referring such question in accordance with the decision of the full bench thereon.

Power to refer question to full bench.

21. Any single Judge of the Chief Court or any bench of Judges of such Court (not being the full bench) exercising any powers conferred on the Chief Court by this Act or by any other enactment for the time being in force, may refer for the decision of the full bench any question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence arising before such Judge or bench of Judges.

Any Judge or bench making a reference on any question in any case under this section, shall dispose of such case in accordance with the decision of the full bench on such question.

Power to appoint ministerial officers.

22. The Chief Court may from time to time, with the sanction of the Local Government, appoint a Registrar and Deputy Registrar and such other ministerial officers as may be necessary for the administration of justice by such Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act.

Powers and duties of such officers.

23. The officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the Chief Court may from time to time direct.

Suspension and dismissal of such officers.

24. Any such officer may be suspended or dismissed from his office by order of the Chief Court: Provided that neither the Registrar nor the Deputy Registrar shall be dismissed without the previous sanction of the Local Government.

Superintendence and control of subordinate Courts.

25. The general superintendence over all Courts of the seven grades last mentioned in section four and over all Courts of Small Causes shall be vested in, and such Courts shall be subordinate to, the Chief Court.

Power to make rules as to petition-writers.

26. The Chief Court may from time to time make rules—

(*a*) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Panjáb;

(*b*) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section and having the force of law shall be liable, on conviction before a Deputy Commissioner, to a fine which may extend to fifty rupees.

Power to make rules as to other matters.

27. The Chief Court may from time to time—

(*a*) make rules consistent with this Act conferring and imposing on the ministerial officers of the Courts subject to its superintendence, such powers and duties of a ministerial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(*b*) make rules consistent with this Act to determine in what cases pleaders practising in such Courts shall be permitted to address such Courts in English;

(*c*) prescribe forms of seals to be used by such Courts;

(*d*) prescribe forms for such books, entries, statistics and accounts as it thinks necessary should be kept, made or compiled in such Courts or submitted to any authority;

(*e*) make rules consistent with this Act, providing for the inspection of such Courts and the supervision of the working thereof;

(*f*) make such rules consistent with this Act, institute such inquiries and submit such recommendations to the Local Government as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of such Courts and maintaining proper discipline among such officers.

Registers, books, accounts and statements to be kept and furnished by Chief Court.

28. The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Local Government such of the same registers, books and accounts and statements of the work done in the Court, as may from time to time be required by the said Government.

The Chief Court shall also comply with such requisitions as may from time to time be made by the Governor General in Council or by the Local Government for certified copies of, or extracts from, the records of the Court.

CHAPTER IV.

OF THE JURISDICTION AND POWERS OF THE SUBORDINATE CIVIL COURTS.

Controlling powers of Commissioners and Deputy Commissioners.

29. Subject to the general superintendence of the Chief Court,

every Commissioner shall control (*a*) the Courts of all Deputy Commissioners, (*b*) the Courts of all persons invested under section nine with the powers of a Commissioner within his division, and (*c*) the Courts controlled by the Deputy Commissioners within his division, and

every Deputy Commissioner shall control (*a*) all Courts of the five grades last mentioned in section four and all Courts of Small Causes, and (*b*) all Courts of persons invested under section nine with the powers of a Deputy Commissioner within his district.

Powers of Commissioner.

30. The Commissioner shall have the powers conferred by the next two following sections on each of the Courts of the Deputy Commissioners subject to his control.

Principal Court of original jurisdiction.

31. The Court of the Deputy Commissioner of a district shall be deemed for the purposes of all enactments for the time being in force to be the District Court or principal Civil Court of original jurisdiction in such district.

No pecuniary limits to jurisdiction of Deputy Commissioner.

32. Except as otherwise provided by any enactment for the time being in force,

(*a*) the Court of the Deputy Commissioner shall have jurisdiction for the adjudication of original civil suits without limit as regards the amount or value of the subject-matter of such suits, and

Pecuniary limits of jurisdiction of other Courts.

(*b*) each of the Courts mentioned in the first column of the subjoined table shall have jurisdiction for the adjudication of such suits when such amount or value does not exceed the limit prescribed for such Court in the second column of the said table:

Court.	Limit of jurisdiction.
	Rs.
(*a*) The Court of the Assistant Commissioner with full powers ...	10,000
(*b*) The Court of the Assistant Commissioner with special powers ...	500
(*c*) The Court of the Assistant Commissioner with ordinary powers ...	100
(*d*) The Court of the Tahsíldár with special powers	300
(*e*) The Court of the Tahsíldár with ordinary powers	50

Powers of Courts of Commissioner and Deputy Commissioner.

33. The Court of any Commissioner or Deputy Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial, disposal and transfer as are conferred by section sixteen on the Chief 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.

Power to distribute business.

34. Notwithstanding anything contained in the Code of Civil Procedure, every Commissioner and Deputy Commissioner may by written order direct that any civil business cognizable by his Court and the Courts under his control (including the execution of decrees) shall be distributed among such Courts in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any jurisdiction in any suit of which the amount or value of the subject-matter exceeds its proper jurisdiction:

Provided also that no such direction shall be inconsistent with any direction or notification issued by the Local Government under section twelve or thirteen.

Ministerial officers of subordinate Courts.

35. The ministerial officers of the Courts of the Commissioners, Deputy Commissioners and Courts of Small Causes shall be appointed, and may be suspended and dismissed by the Judges of those Courts respectively, whose orders in such matters shall, in the case of a Commissioner, be final, and, in the case of a Deputy Commissioner and the Judge of a Court of Small Causes, be subject to the general control of the Commissioner.

The ministerial officers of all Courts controlled by a Deputy Commissioner other than a Court of Small Causes shall be appointed, and may be suspended and dismissed, by the Deputy Commissioner, but subject to the general control of the Commissioner.

Every appointment under this section shall be made subject to such rules as the Local Government from time to time prescribes in this behalf.

Every person appointed under this section shall exercise such powers and perform such duties as

may from time to time be conferred and imposed upon him by the Chief Court.

The present ministerial officers of the Courts subordinate to the Chief Court shall be deemed to have been appointed under this section.

Power to fine ministerial officers.

36. Every Court under the control of a Deputy Commissioner may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order made by any such Court other than a Court of Small Causes; and may of his own motion remove, suspend from office or fine up to the amount of one month's salary any ministerial officer of any Court under his control other than a Court of Small Causes.

Any Commissioner or Deputy Commissioner and the Judge of any Court of Small Causes may fine any ministerial officer of his Court in an amount not exceeding one month's salary.

CHAPTER V.

OF APPELLATE JURISDICTION.

First appeals.

37. When by any law for the time being in force an appeal is allowed from any decree or order passed or made by a Civil Court of original jurisdiction, and no provision applicable to the territories to which this Act extends is made by such law for determining the Court to which such appeal shall lie, such appeal shall lie as follows, that is to say—

(*a*) when such decree or order is passed or made by the Court of a Tahsíldár or of an Assistant Commissioner with special or ordinary powers—to the Court of the Deputy Commissioner;

(*b*) when such decree or order is passed or made by the Court of an Assistant Commissioner with full powers or of a Deputy Commissioner—to the Court of the Commissioner;

(*c*) when such decree or order is passed or made by the Court of a Commissioner—to the Chief Court.

When Commissioner and Chief Court may receive second appeal.

38. When the decision of the Court of a Deputy Commissioner or Commissioner passed in appeal under section thirty-seven reverses or modifies the decree or order of the Court of original jurisdiction, and is not declared by any law for the time being in force to be final, the Court of the Commissioner, when such decision has been passed by the Court of a Deputy Commissioner, and the Chief Court, when such decision has been passed by the Court of a Commissioner, may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice.

Modification of Code of Civil Procedure, sections 584, 586.

39. The following clause shall be added to the Code of Civil Procedure, section 584:—

"(*d*) the existence or non-existence, validity or invalidity, of a custom alleged to have the force of law."

The words "second appeal" in the same section shall be deemed to include an appeal against the order of the Court of a Commissioner passed under section thirty-eight of this Act.

In modification of the Code of Civil Procedure, section 586, a second appeal may be received under section thirty-six in any suit of the nature cognizable in Courts of Small Causes when the amount or value of the subject-matter of the original suit is less than five hundred rupees: Provided that no such appeal shall lie when such amount or value does not exceed the sum of fifty rupees.

Period of limitation.

40. The period of limitation for an appeal under section thirty-seven, thirty-eight or thirty-nine shall run from the date of the decree, order or decision appealed against, and shall be as follows, that is to say:—

(*a*) when such appeal lies to the Court of a Deputy Commissioner or Commissioner—sixty days;

(*b*) when such appeal lies to the Chief Court—ninety days.

In computing such periods of sixty and ninety days, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

Power to withdraw and try or to transfer appeal.

41. Any Civil 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 civil appeal pending in any Court under its superintendence or control, and try such appeal itself or transfer the same for trial to any other Court under its superintendence or control and of a grade equal or superior to that of the Court from which such appeal is withdrawn.

Judges not to try certain suits and appeals.

42. No Judge of any Court constituted under this Act shall try any suit or appeal to or in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

When any such suit, appeal or proceeding comes before him he shall forthwith transmit the record of the case to the Chief Court with a report of the circumstances attending the reference. The Chief Court shall thereupon dispose of the case in the manner prescribed by section fifteen of the Code of Civil Procedure.

CHAPTER VI.

OF ADVOCATES AND PLEADERS.

Who may plead, &c., in the Courts.

43. Notwithstanding anything contained in the Pleaders, Mukhtárs and Revenue Agents Act, 1865, sections 45 and 46, no person shall appear, plead or act on behalf of another in any Court constituted under this Act unless with the permission of the Chief Court.

Power to make rules regarding pleaders.

44. The Chief Court may from time to time make rules to regulate the following matters:—

(*a*) applications for permission to appear, plead or act in all or any of the Courts constituted under this Act;

(*b*) the form in which such permission shall be granted.

Power to withdraw or suspend permission to appear, &c., in Courts.

45. The Chief Court may at any time, for sufficient reason, withdraw any permission granted under this chapter, or suspend the operation of the same.

Power to fix pleaders' fees as between parties.

46. The Chief Court may from time to time by general order in writing fix and regulate the fees which shall be payable upon all proceedings in such Court by any party in respect of the fees of his adversary's pleader.

CHAPTER VII.

MISCELLANEOUS.

Code of Civil Procedure to apply to scheduled Districts in Panjáb.

47. The Code of Civil Procedure, as modified by this Act, shall apply to all the territories for the time being under the administration of the Lieutenant Governor of the Panjáb.

Rules when to have force of law.

48. All rules made under section twenty-six and section twenty-seven, clauses (*b*) and (*e*), shall be submitted for sanction to the Local Government, and, on receiving such sanction, shall be published in the official Gazette, and shall thereupon, have the force of law.

Local Government may transfer power conferred by section 25, to a single Judge.

49. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, appoint a single Judge of the Chief Court to exercise the power of superintendence conferred on such Court by section twenty-five, and may cancel such notification.

While such notification continues in force, such power shall be exercised by the Judge appointed thereby and not otherwise.

Power to invest settlement officers with powers of Civil Courts in certain cases.

50. The Local Government may from time to time, by notification in the official Gazette, declare that a settlement of land-revenue is in progress in any local area, and invest any officer making or controlling such settlement with all or any of the powers of any Court constituted under this Act for the purpose of trying all or any specified class of suits and appeals relating to land, or the rent, revenue or produce of such land, arising in such local area.

The publication of any notification under this section shall be conclusive evidence that a settlement of land-revenue is in progress in the local area to which the notification refers.

The Local Government may cancel any such notification.

While such notification continues in force, such powers shall be exercised by the officers so invested and not otherwise.

Provided that the Local Government may by order published in the official Gazette direct that any jurisdiction with which any officer may have been invested by such notification shall be exercised solely by the Civil Court by which such jurisdiction would have been exercised if such notification had not been published.

Provided also that any cases pending before any officer under such notification when it is cancelled may, notwithstanding such cancellation, be disposed of by him as if it continued in force, unless the Local Government directs (as it is hereby empowered to do) that such cases shall be transferred for disposal to the Court by which they would have been disposed of if such notification had not been published.

Explanation.—In this section "land" means land assessed to the land-revenue or whereof the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, and all land the property of Government not within the site of any town or village.

Power to alter subordination of Courts for purposes of section 50.

51. For the purposes of section 50 the Local Government may, notwithstanding anything herein contained, from time to time direct that any of the Courts hereinbefore mentioned (except the Chief Court) shall, in respect of any specified class of cases, be subordinate to or subject to the control or superintendence of any authority other than those herein specified.

SCHEDULE.

(*See section* 2.)

ACTS REPEALED.

Number and year of Act.	Title or subject.	Extent of repeal.
XIX of 1865	An Act to define the jurisdiction of the Courts of Judicature of the Panjáb and its Dependencies.	So much as has not been repealed.
IV of 1866	An Act to amend the constitution of the Chief Court of Judicature in the Panjáb and its Dependencies.	So much as has not been repealed.
XXVII of 1867	An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to distribute the business in subordinate Courts.	The whole.
III of 1868	An Act to authorize the Local Government of the Panjáb to invest any person with the powers of an Assistant Commissioner or Tahsíldár.	So much as has not been repealed.
IX of 1873	An Act to prolong the law relating to Appeals and Reviews of Judgment in the Panjáb.	So much as has not been repealed.
V of 1874	An Act to invest the Assistant Commissioner in charge of the Kullu sub-division of the Kángra District with certain appellate powers.	So much as has not been repealed.
XIX of 1875	An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.	The whole.

STATEMENT OF OBJECTS AND REASONS.

This Bill is intended to be mainly a consolidation measure, bringing within a shorter compass and reducing into convenient order the provisions relating to the Chief Court and the subordinate Civil Courts of the Panjáb, which are at present scattered through several enactments passed between the years 1865 and 1875. It proposes, however, to introduce some changes which the experience of the working of those Courts now obtained appear to render desirable.

2. The power to make rules as to petition-writers conferred by section 26 is considered necessary, as at present, owing to the inability of the Courts to control these persons, great abuses and great loss to litigants are found to result.

3. Provision has been made (section 35) as to the appointment, suspension and removal of the ministerial officers of subordinate Courts, and power has been given to fine them.

4. The existence or non-existence, validity or invalidity of a custom alleged to have the force of law is added (section 39) to the grounds on which a second appeal may be brought under the Code of Civil Procedure, section 584, and a second appeal will lie in Small Cause cases when the amount or value of the subject-matter of the original suit is less than Rs. 500, but not less than Rs. 50.

5. Section 43 removes a doubt which has been felt as to the power of the Chief Court to exclude certain classes of legal practitioners from pleading and acting in the Civil Courts of the Province. It places the Chief Court in this respect on the same footing as the High Courts established by Royal Charter.

6. Section 49, giving the Local Government power to vest the administrative control of the subordinate Courts in a single Judge of the Chief Court, has been inserted at the instance of the late Lieutenant-Governor. He considered that although the Judges of the Chief Court had in every way endeavoured, and with considerable success, to improve the judicial service of the province, and had in this direction done all in their power to strengthen the hands of the Local Government, yet so much efficiency could not be attained as when the responsibility for supervision rested with a single Judge. This change will practically give one of the Judges the powers formerly exercised by the Judicial Commissioner in the Panjáb.

SIMLA;
The 28th June 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 11, 1877. Register No. 53.

☞ 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 26th July 1877, and was referred to a Select Committee:—

No. 14 OF 1877.

THE PANJA'B COURTS' BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of Acts.
3. Interpretation-clause.

CHAPTER II.

OF THE CONSTITUTION OF THE COURTS.

4. Grades of Courts.
5. Constitution of Chief Court and appointment and tenure of Judges.
6. Rank and precedence of Judges of Chief Court.
7. Certain powers to be exercised *ex officio*.
8. Assistant Commissioner or Tahsíldár may be invested with higher powers.
9. Any person may be invested with certain powers.
10. Exercise of such powers by benches.
11. Persons and benches exercising such powers to be deemed Courts of corresponding grades.
12. Such powers where and in what cases to be exercised.
13. Power to alter local limits of jurisdiction.

CHAPTER III.

OF THE JURISDICTION AND POWERS OF THE CHIEF COURT.

14. Civil appeals from subordinate Courts.
15. Criminal appellate and revisional jurisdiction.
    Power to try European British subjects.
16. Power to withdraw and try, or to transfer suits.
17. Appeals from original jurisdiction of Chief Court.
18. Limitation of such appeals.
19. Delegation of powers to its members.
    Proviso.
20. Rule of decision when Judges differ.
21. Power to refer question to full bench.
22. Power to appoint ministerial officers.
23. Powers and duties of such officers.
24. Suspension and dismissal of such officers.

SECTIONS.

25. Superintendence and control of subordinate Courts.
26. Power to make rules as to petition-writers.
27. Power to make rules as to other matters.
28. Registers, books, accounts and statements to be kept and furnished by Chief Court.

CHAPTER IV.

OF THE JURISDICTION AND POWERS OF THE SUBORDINATE CIVIL COURTS.

29. Controlling powers of Commissioners and Deputy Commissioners.
30. Powers of Commissioner.
31. Principal Court of original jurisdiction.
32. No pecuniary limits to jurisdiction of Deputy Commissioner.
Pecuniary limits of jurisdiction of other Courts.
33. Powers of Courts of Commissioner and Deputy Commissioner.
34. Power to distribute business.
35. Ministerial officers of subordinate Courts.
36. Power to fine ministerial officers.

CHAPTER V.

OF APPELLATE JURISDICTION.

37. First appeals.
38. When Commissioner and Chief Court may receive second appeal.
39. Modification of Code of Civil Procedure, sections 584, 586.
40. Period of limitation.
41. Power to withdraw and try or to transfer appeal.
42. Judges not to try certain suits and appeals.

CHAPTER VI.

OF ADVOCATES AND PLEADERS.

43. Who may plead, &c., in the Courts.
44. Power to make rules regarding pleaders.
45. Power to withdraw or suspend permission to appear, &c., in Courts.
46. Power to fix pleaders' fees as between parties.

CHAPTER VII.

MISCELLANEOUS.

47. Code of Civil Procedure to apply to scheduled districts in Panjáb.
48. Rules when to have force of law.
49. Local Government may transfer power conferred by section 25, to a single Judge.
SECTIONS.
50. Power to invest Settlement Officers with powers of Civil Court in certain cases.
51. Power to alter subordination of Courts for purposes of section 50.
SCHEDULE.

A Bill to consolidate and amend the law relating to Courts in the Panjáb.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Courts in the Panjáb; and whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Panjáb Courts' Act, 1877:"

Local extent. It extends to all the territories for the time being under the administration of the Lieutenant-Governor of the Panjáb;

Commencement. And it shall come into force on such day as the Local Government may, by notification in the Official Gazette, appoint in this behalf.

Repeal of Acts. 2. On and from that day the Acts mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column thereof.

But all Courts constituted, appointments made, rules and forms prescribed, orders, directions and licenses issued and powers conferred under any of the said Acts, shall, as far as may be, be deemed to have been respectively constituted, made, prescribed, issued and conferred under this Act.

Interpretation-clause. 3. In this Act unless there be something repugnant in the subject or context, "Assistant Commissioner" includes Extra Assistant Commissioner, and "Tahsíldár" includes Munsif.

CHAPTER II.

OF THE CONSTITUTION OF THE COURTS.

Grades of Courts. 4. Besides the Courts established under any other enactment for the time being in force, there shall be eight grades of Courts (namely):—

(1) the Chief Court;

(2) the Court of the Commissioner;

(3) the Court of the Deputy Commissioner;

(4) the Court of the Assistant Commissioner with full powers;

(5) the Court of the Assistant Commissioner with special powers;

(6) the Court of the Assistant Commissioner with ordinary powers;

(7) the Court of the Tahsíldár with special powers; and

(8) the Court of the Tahsíldár with ordinary powers.

Constitution of Chief Court and appointment and tenure of Judges. 5. The Chief Court shall consist of three or more Judges, who shall be appointed by the Governor General in Council, and shall hold their offices during his pleasure, and of whom one at least shall always be a barrister of not less than five years' standing.

Rank and precedence of Judges of Chief Court. 6. The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges.

Certain powers to be exercised *ex officio*. 7. Every person appointed by the Local Government to be or to act as a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsíldár shall, in the division, district or tahsíl to which he may from time to time be posted, have the powers of a Court of a Commissioner, a Deputy Commissioner, an Assistant Commissioner with ordinary powers, or a Tahsíldár with ordinary powers, as the case may be.

Assistant Commissioner or Tahsíldár may be invested with higher powers. 8. The Local Government may from time to time confer upon any Assistant Commissioner the powers of an Assistant Commissioner with full powers, or of an Assistant Commissioner with special powers, or upon any Tahsíldár the powers of a Tahsíldár with special powers, and may withdraw any powers so conferred.

Any Assistant Commissioner or Tahsíldár invested with powers under this section may exercise such powers in any district or tahsíl, as the case may be, to which he may from time to time be posted.

Any person may be invested with certain powers. 9. The Local Government may from time to time confer upon any person all or any of the powers of a Court of any of the seven grades last mentioned in section four, and may withdraw any powers so conferred.

Exercise of such powers by benches. 10. The Local Government may direct that any three persons invested with powers of the same description under section nine, shall exercise such powers sitting together as a bench and not otherwise.

When such persons sit together as a bench, the decision of the majority of them shall be deemed to be the decision of the bench.

Persons and benches exercising such powers to be deemed Courts of corresponding grades. 11. Except for the purposes of exercising control over any other Court, any person or any bench exercising the powers of a Court of any grade under section nine or section ten shall be deemed to be a Court of such grade for all the purposes of this Act.

Such powers where and in what cases to be exercised. 12. Any person or bench invested under section eight, nine or ten with the powers of a Court of any grade, shall exercise such powers and discharge the functions of such Court within such local limits, and in such classes of cases, as the Local Government may from time to time direct.

Power to alter local limits of jurisdiction. 13. The Local Government may from time to time, by notification in the official Gazette, fix the local limits of the jurisdiction of any Court of any of the seven grades last mentioned in section four.

CHAPTER III.

OF THE JURISDICTION AND POWERS OF THE CHIEF COURT.

Civil appeals from subordinate Courts. 14. The Chief Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Criminal appellate and revisional jurisdiction. 15. The Chief Court shall be the highest Court of Criminal appeal or revision in the said territories, and shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial.

Power to try European British subjects.

Power to withdraw and try or to transfer suits. 16. The Chief 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 or other civil proceeding instituted in any Court under its superintendence or control, and try or dispose of such suit or proceeding itself, or transfer the same for trial or disposal to any other Court under its superintendence or control and competent to try or dispose of such suit or proceeding in respect of its nature and the amount or value of its subject-matter.

Appeals from original jurisdiction of Chief Court. 17. Except as otherwise provided by any law for the time being in force, an appeal shall lie from any decree or order passed or made by the Chief Court—

(*a*) in exercise of the original jurisdiction conferred by section sixteen; or

(*b*) in exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section:

Provided that such appeal shall lie only in the cases and in manner following (that is to say):

(*c*) when such decree or order is made by a single Judge, an appeal shall lie, either to a bench consisting of two other Judges, or to the full bench, as the Court may, by general rule or special order from time to time, direct;

(*d*) when such decree or order is made by a bench of Judges not being the full bench, and such Judges differ in opinion, the appeal shall lie from such decree or order to the full bench.

Limitation of such appeals.

18. In the Indian Limitation Act, 1877, Schedule II, Nos. 151 and 162, after the word "Bombay" the following words shall be inserted (namely): "or the Chief Court of the Panjáb."

Delegation of powers to its members.

19. Except as herein or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide in such manner as it thinks fit for the exercise by one or more of its Judges of any powers conferred on it by this Act, or by any other enactment for the time being in force:

Proviso.

Provided that no decree, order, sentence or decision of any Court shall be reversed by any Judge of the Chief Court sitting alone.

Rule of decision when Judges differ.

20. When there is a difference of opinion among the Judges composing any bench of the Chief Court on any question arising before such Judges in the exercise by them of any powers conferred on such Court by this Act, or by any other enactment for the time being in force, such question shall, except as otherwise provided by any enactment for the time being in force, be decided as follows, that is to say:—

If the number of such Judges concurring in one opinion upon such question is larger than the number holding any other opinion upon such question, the decision shall be in accordance with the opinion of such larger number.

If the numbers of such Judges holding respectively two or more opinions on such question are equal, the following rules shall be observed, that is to say:—

(*a*) if such bench is the full bench, or is exercising any original jurisdiction to which section seventeen applies or is extended, the decision upon such question shall be in accordance with such one of these opinions as is held by the Judge who has precedence under section six;

(*b*) in other cases the bench before which such question has arisen shall refer the same to the full bench, and the full bench shall decide the same in accordance with the rules hereinbefore contained, and the case in which such question has arisen shall be disposed of by the bench referring such question in accordance with the decision of the full bench thereon.

Power to refer question to full bench.

21. Any single Judge of the Chief Court or any bench of Judges of such Court (not being the full bench) exercising any powers conferred on the Chief Court by this Act or by any other enactment for the time being in force, may refer for the decision of the full bench any question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence arising before such Judge or bench of Judges.

Any Judge or bench making a reference on any question in any case under this section, shall dispose of such case in accordance with the decision of the full bench on such question.

Power to appoint ministerial officers.

22. The Chief Court may from time to time, with the sanction of the Local Government, appoint a Registrar and Deputy Registrar and such other ministerial officers as may be necessary for the administration of justice by such Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act.

Powers and duties of such officers.

23. The officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the Chief Court may from time to time direct.

Suspension and dismissal of such officers.

24. Any such officer may be suspended or dismissed from his office by order of the Chief Court; Provided that neither the Registrar nor the Deputy Registrar shall be dismissed without the previous sanction of the Local Government.

Superintendence and control of subordinate Courts.

25. The general superintendence over all Courts of the seven grades last mentioned in section four and over all Courts of Small Causes shall be vested in, and such Courts shall be subordinate to, the Chief Court.

Power to make rules as to petition-writers.

26. The Chief Court may from time to time make rules—

(*a*) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Panjáb;

(*b*) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section and having the force of law shall be liable, on conviction before a Deputy Commissioner, to a fine which may extend to fifty rupees.

Power to make rules as to other matters.

27. The Chief Court may from time to time—

(*a*) make rules consistent with this Act conferring and imposing on the ministerial officers of the Courts subject to its superintendence, such powers and duties of a ministerial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(*b*) make rules consistent with this Act to determine in what cases pleaders practising in such Courts shall be permitted to address such Courts in English;

(*c*) prescribe forms of seals to be used by such Courts;

(*d*) prescribe forms for such books, entries, statistics and accounts as it thinks necessary should be kept, made or compiled in such Courts or submitted to any authority;

(*e*) make rules consistent with this Act, providing for the inspection of such Courts and the supervision of the working thereof;

(*f*) make such rules consistent with this Act, institute such inquiries and submit such recommendations to the Local Government as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of such Courts and maintaining proper discipline among such officers.

Registers, books, accounts and statements to be kept and furnished by Chief Court.

28. The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Local Government such of the same registers, books and accounts and statements of the work done in the Court, as may from time to time be required by the said Government.

The Chief Court shall also comply with such requisitions as may from time to time be made by the Governor General in Council or by the Local Government for certified copies of, or extracts from, the records of the Court.

CHAPTER IV.

OF THE JURISDICTION AND POWERS OF THE SUBORDINATE CIVIL COURTS.

Controlling powers of Commissioners and Deputy Commissioners.

29. Subject to the general superintendence of the Chief Court,

every Commissioner shall control (*a*) the Courts of all Deputy Commissioners, (*b*) the Courts of all persons invested under section nine with the powers of a Commissioner within his division, and (*c*) the Courts controlled by the Deputy Commissioners within his division, and

every Deputy Commissioner shall control (*a*) all Courts of the five grades last mentioned in section four and all Courts of Small Causes, and (*b*) all Courts of persons invested under section nine with the powers of a Deputy Commissioner within his district.

Powers of Commissioner.

30. The Commissioner shall have the powers conferred by the next two following sections on each of the Courts of the Deputy Commissioners subject to his control.

Principal Court of original jurisdiction.

31. The Court of the Deputy Commissioner of a district shall be deemed for the purposes of all enactments for the time being in force to be the District Court or principal Civil Court of original jurisdiction in such district.

No pecuniary limits to jurisdiction of Deputy Commissioner.

32. Except as otherwise provided by any enactment for the time being in force,

(*a*) the Court of the Deputy Commissioner shall have jurisdiction for the adjudication of original civil suits without limit as regards the amount or value of the subject-matter of such suits, and

(*b*) each of the Courts mentioned in the first column of the subjoined table shall have jurisdiction for the adjudication of such suits when such amount or value does not exceed the limit prescribed for such Court in the second column of the said table:

Pecuniary limits of jurisdiction of other Courts.

Court.	Limit of jurisdiction.
	Rs.
(*a*) The Court of the Assistant Commissioner with full powers ...	10,000
(*b*) The Court of the Assistant Commissioner with special powers ...	500
(*c*) The Court of the Assistant Commissioner with ordinary powers ...	100
(*d*) The Court of the Tahsíldár with special powers	300
(*e*) The Court of the Tahsíldár with ordinary powers	50

Powers of Courts of Commissioner and Deputy Commissioner.

33. The Court of any Commissioner or Deputy Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial, disposal and transfer as are conferred by section sixteen on the Chief 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.

Power to distribute business.

34. Notwithstanding anything contained in the Code of Civil Procedure, every Commissioner and Deputy Commissioner may by written order direct that any civil business cognizable by his Court and the Courts under his control (including the execution of decrees) shall be distributed among such Courts in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any jurisdiction in any suit of which the amount or value of the subject-matter exceeds its proper jurisdiction:

Provided also that no such direction shall be inconsistent with any direction or notification issued by the Local Government under section twelve or thirteen.

Ministerial officers of subordinate Courts.

35. The ministerial officers of the Courts of the Commissioners, Deputy Commissioners and Courts of Small Causes shall be appointed, and may be suspended and dismissed, by the Judges of those Courts respectively, whose orders in such matters shall, in the case of a Commissioner, be final, and, in the case of a Deputy Commissioner and the Judge of a Court of Small Causes, be subject to the general control of the Commissioner.

The ministerial officers of all Courts controlled by a Deputy Commissioner other than a Court of Small Causes shall be appointed, and may be suspended and dismissed, by the Deputy Commissioner, but subject to the general control of the Commissioner.

Every appointment under this section shall be made subject to such rules as the Local Government from time to time prescribes in this behalf.

Every person appointed under this section shall exercise such powers and perform such duties as

may from time to time be conferred and imposed upon him by the Chief Court.

The present ministerial officers of the Courts subordinate to the Chief Court shall be deemed to have been appointed under this section.

Power to fine ministerial officers.

36. Every Court under the control of a Deputy Commissioner may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order made by any such Court other than a Court of Small Causes; and may of his own motion remove, suspend from office or fine up to the amount of one month's salary any ministerial officer of any Court under his control other than a Court of Small Causes.

Any Commissioner or Deputy Commissioner and the Judge of any Court of Small Causes may fine any ministerial officer of his Court in an amount not exceeding one month's salary.

CHAPTER V.

OF APPELLATE JURISDICTION.

First appeals.

37. When by any law for the time being in force an appeal is allowed from any decree or order passed or made by a Civil Court of original jurisdiction, and no provision applicable to the territories to which this Act extends is made by such law for determining the Court to which such appeal shall lie, such appeal shall lie as follows, that is to say—

(*a*) when such decree or order is passed or made by the Court of a Tahsíldár or of an Assistant Commissioner with special or ordinary powers—to the Court of the Deputy Commissioner;

(*b*) when such decree or order is passed or made by the Court of an Assistant Commissioner with full powers or of a Deputy Commissioner—to the Court of the Commissioner;

(*c*) when such decree or order is passed or made by the Court of a Commissioner—to the Chief Court.

When Commissioner and Chief Court may receive second appeal.

38. When the decision of the Court of a Deputy Commissioner or Commissioner passed in appeal under section thirty-seven reverses or modifies the decree or order of the Court of original jurisdiction, and is not declared by any law for the time being in force to be final, the Court of the Commissioner, when such decision has been passed by the Court of a Deputy Commissioner, and the Chief Court, when such decision has been passed by the Court of a Commissioner, may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice.

Modification of Code of Civil Procedure, sections 584, 586.

39. The following clause shall be added to the Code of Civil Procedure, section 584:—

"(*d*) the existence or non-existence, validity or invalidity, of a custom alleged to have the force of law."

The words "second appeal" in the same section shall be deemed to include an appeal against the order of the Court of a Commissioner passed under section thirty-eight of this Act.

In modification of the Code of Civil Procedure, section 586, a second appeal may be received under section thirty-six in any suit of the nature cognizable in Courts of Small Causes when the amount or value of the subject-matter of the original suit is less than five hundred rupees: Provided that no such appeal shall lie when such amount or value does not exceed the sum of fifty rupees.

Period of limitation.

40. The period of limitation for an appeal under section thirty-seven, thirty-eight or thirty-nine shall run from the date of the decree, order or decision appealed against, and shall be as follows, that is to say:—

(*a*) when such appeal lies to the Court of a Deputy Commissioner or Commissioner—sixty days;

(*b*) when such appeal lies to the Chief Court—ninety days.

In computing such periods of sixty and ninety days, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

Power to withdraw and try or to transfer appeal.

41. Any Civil 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 civil appeal pending in any Court under its superintendence or control, and try such appeal itself or transfer the same for trial to any other Court under its superintendence or control and of a grade equal or superior to that of the Court from which such appeal is withdrawn.

Judges not to try certain suits and appeals.

42. No Judge of any Court constituted under this Act shall try any suit or appeal to or in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

When any such suit, appeal or proceeding comes before him he shall forthwith transmit the record of the case to the Chief Court with a report of the circumstances attending the reference. The Chief Court shall thereupon dispose of the case in the manner prescribed by section fifteen of the Code of Civil Procedure.

CHAPTER VI.

OF ADVOCATES AND PLEADERS.

Who may plead, &c., in the Courts.

43. Notwithstanding anything contained in the Pleaders, Mukhtárs and Revenue Agents Act, 1865, sections 45 and 46, no person shall appear, plead or act on behalf of another in any Court constituted under this Act unless with the permission of the Chief Court.

Power to make rules regarding pleaders.

44. The Chief Court may from time to time make rules to regulate the following matters:—

(*a*) applications for permission to appear, plead or act in all or any of the Courts constituted under this Act;

(*b*) the form in which such permission shall be granted.

Power to withdraw or suspend permission to appear, &c., in Courts.

45. The Chief Court may at any time, for sufficient reason, withdraw any permission granted under this chapter, or suspend the operation of the same.

Power to fix pleaders' fees as between parties.

46. The Chief Court may from time to time by general order in writing fix and regulate the fees which shall be payable upon all proceedings in such Court by any party in respect of the fees of his adversary's pleader.

CHAPTER VII.

MISCELLANEOUS.

Code of Civil Procedure to apply to scheduled Districts in Panjáb.

47. The Code of Civil Procedure, as modified by this Act, shall apply to all the territories for the time being under the administration of the Lieutenant Governor of the Panjáb.

Rules when to have force of law.

48. All rules made under section twenty-six and section twenty-seven, clauses (*b*) and (*e*), shall be submitted for sanction to the Local Government, and, on receiving such sanction, shall be published in the official Gazette, and shall thereupon, have the force of law.

Local Government may transfer power conferred by section 25, to a single Judge.

49. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, appoint a single Judge of the Chief Court to exercise the power of superintendence conferred on such Court by section twenty-five, and may cancel such notification.

While such notification continues in force, such power shall be exercised by the Judge appointed thereby and not otherwise.

Power to invest settlement officers with powers of Civil Courts in certain cases.

50. The Local Government may from time to time, by notification in the official Gazette, declare that a settlement of land-revenue is in progress in any local area, and invest any officer making or controlling such settlement with all or any of the powers of any Court constituted under this Act for the purpose of trying all or any specified class of suits and appeals relating to land, or the rent, revenue or produce of such land, arising in such local area.

The publication of any notification under this section shall be conclusive evidence that a settlement of land-revenue is in progress in the local area to which the notification refers.

The Local Government may cancel any such notification.

While such notification continues in force, such powers shall be exercised by the officers so invested and not otherwise.

Provided that the Local Government may by order published in the official Gazette direct that any jurisdiction with which any officer may have been invested by such notification shall be exercised solely by the Civil Court by which such jurisdiction would have been exercised if such notification had not been published.

Provided also that any cases pending before any officer under such notification when it is cancelled may, notwithstanding such cancellation, be disposed of by him as if it continued in force, unless the Local Government directs (as it is hereby empowered to do) that such cases shall be transferred for disposal to the Court by which they would have been disposed of if such notification had not been published.

Explanation.—In this section "land" means land assessed to the land-revenue or whereof the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, and all land the property of Government not within the site of any town or village.

Power to alter subordination of Courts for purposes of section 50.

51. For the purposes of section 50 the Local Government may, notwithstanding anything herein contained, from time to time direct that any of the Courts hereinbefore mentioned (except the Chief Court) shall, in respect of any specified class of cases, be subordinate to or subject to the control or superintendence of any authority other than those herein specified.

SCHEDULE.

(*See section* 2.)

ACTS REPEALED.

Number and year of Act.	Title or subject.	Extent of repeal.
XIX of 1865	An Act to define the jurisdiction of the Courts of Judicature of the Panjáb and its Dependencies.	So much as has not been repealed.
IV of 1866	An Act to amend the constitution of the Chief Court of Judicature in the Panjáb and its Dependencies.	So much as has not been repealed.
XXVII of 1867	An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to distribute the business in subordinate Courts.	The whole.
III of 1868	An Act to authorize the Local Government of the Panjáb to invest any person with the powers of an Assistant Commissioner or Tahsíldár.	So much as has not been repealed.
IX of 1873	An Act to prolong the law relating to Appeals and Reviews of Judgment in the Panjáb.	So much as has not been repealed.
V of 1874	An Act to invest the Assistant Commissioner in charge of the Kullu sub-division of the Kángra District with certain appellate powers.	So much as has not been repealed.
XIX of 1875	An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.	The whole.

STATEMENT OF OBJECTS AND REASONS.

This Bill is intended to be mainly a consolidation measure, bringing within a shorter compass and reducing into convenient order the provisions relating to the Chief Court and the subordinate Civil Courts of the Panjáb, which are at present scattered through several enactments passed between the years 1865 and 1875. It proposes, however, to introduce some changes which the experience of the working of those Courts now obtained appear to render desirable.

2. The power to make rules as to petition-writers conferred by section 26 is considered necessary, as at present, owing to the inability of the Courts to control these persons, great abuses and great loss to litigants are found to result.

3. Provision has been made (section 35) as to the appointment, suspension and removal of the ministerial officers of subordinate Courts, and power has been given to fine them.

4. The existence or non-existence, validity or invalidity of a custom alleged to have the force of law is added (section 39) to the grounds on which a second appeal may be brought under the Code of Civil Procedure, section 584, and a second appeal will lie in Small Cause cases when the amount or value of the subject-matter of the original suit is less than Rs. 500, but not less than Rs. 50.

5. Section 43 removes a doubt which has been felt as to the power of the Chief Court to exclude certain classes of legal practitioners from pleading and acting in the Civil Courts of the Province. It places the Chief Court in this respect on the same footing as the High Courts established by Royal Charter.

6. Section 49, giving the Local Government power to vest the administrative control of the subordinate Courts in a single Judge of the Chief Court, has been inserted at the instance of the late Lieutenant-Governor. He considered that although the Judges of the Chief Court had in every way endeavoured, and with considerable success, to improve the judicial service of the province, and had in this direction done all in their power to strengthen the hands of the Local Government, yet so much efficiency could not be attained as when the responsibility for supervision rested with a single Judge. This change will practically give one of the Judges the powers formerly exercised by the Judicial Commissioner in the Panjáb.

SIMLA;
The 28th June 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The 9th August 1877.

[First publication.]

The following Bill and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Viceroy and Governor General, 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 :—

No. 15 OF 1877.

THE MASTER AND SERVANT BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.—PRELIMINARY.

SECTION.
1. Short title.
Local extent.
Commencement.
2. Enactments repealed.
Enactments saved.

CHAPTER II.—OF THE CONTRACT OF SERVICE.
3. Contract of service.
Wages.
Master.
Servant.
Domestic servant.
4. Application of provisions as to death.
5. Persons competent to enter into contracts of service.
6. Presumption as to wages.
7. Presumption as to term of service.
8. Withdrawal of notice.
9. Termination of contract.
10. Presumption of renewal of contract.

CHAPTER III.—OF THE RIGHTS OF THE MASTER AND THE DUTIES OF THE SERVANT.
11. Master's right to compensation when servant refuses to enter service.
12. Obligations of servant after entry.
13. Time of servant.
14. Master's power to punish.
15. Master's power to discharge.
16. Master's right to sue for compensation for loss of service.
17. Master's right to sue for wages earned by servant from third person.
18. Effect of servant's contributory negligence.

CHAPTER IV.—OF THE RIGHTS OF THE SERVANT AND THE DUTIES OF THE MASTER.
19. Servant's right to compensation from master refusing to receive into service.
20. Obligations of master—
(*a*) as to retaining servant;
(*b*) as to payment of wages;
(*c*) as to indemnifying servant;
(*d*) as to compensating servant for injury caused by master's neglect;
(*e*) as to fellow-servants;
(*f*) as to servants employed in dangerous work.
21. Servants' right to compensation for breach of duty imposed by section 20, clauses (*e*) and (*f*).
22. Negligence of foreman.
23. Compensation for wrongful dismissal.
Measure of compensation.
24. Termination of service by servant for master's fault.
25. Wages of servant in case of wrongful discharge or termination of contract for master's fault or by death.

CHAPTER V.—OF THE LIABILITY OF ONE FELLOW-SERVANT TO ANOTHER.
26. Liability of one fellow-servant to another.

CHAPTER VI.—OF THE LIABILITY OF A MASTER TO THIRD PERSONS FOR THE ACTS OF HIS SERVANT.
27. When servant may bind master by contract.
28. Liability of master for wrongful acts of servant.
29. Master when not responsible for servant's negligence.
30. Volunteers.

CHAPTER VII.—OF THE LIABILITY OF A SERVANT TO THIRD PERSONS FOR ACTS DONE ON BEHALF OF HIS MASTER.
31. Servant when bound by contract in master's name.
32. Servant when liable to third person for wrongful act.

CHAPTER VIII.—OF FORMS.
33. Use of forms in second schedule.

CHAPTER IX.—OF THE JURISDICTION OF MAGISTRATES IN DISPUTES BETWEEN MASTER AND SERVANT.
34. Failure to perform work on account of which servant has received an advance.
35. Disputes between masters and workmen on Railways, &c.
36. Punishment for breach of contract to work for fixed term on Railway, &c.
Power to order performance of contract.
37. "Master" and "Magistrate."

CHAPTER X.—OF THE REGISTRATION OF DOMESTIC SERVANTS.
38. Power to establish registry-office and appoint Registrar.
39. Masters to cause servants to be registered.
Masters to supply lists to Registrar.
40. Servants to attend personally.
41. Record in general Register.
Issue of pocket-register.
42. Servants quitting employment before pocket-registers delivered.
43. Registration of persons desiring to become domestic servants.
Refusal to register such persons.
44. Registration when to be refused.
45. Master not to hire unregistered servant.
46. Duty of master on hiring registered servant.
47. Master to enter date and cause of termination of service.
Entry of character.
Proviso.
Report of failure to produce pocket-register.

SECTION.
48. Servants to attend Registrar for pocket-register entries to be transferred to general register.
49. Servants to exhibit pocket-registers to Police.
Entry in case of conviction.
50. Registered servants entering service, &c., in places where there is no servants' registration-office.
51. Duplicate pocket-registers.
52. Masters not fulfilling any duty imposed on them by this chapter.
53. Servants not fulfilling any duty imposed on them by this chapter.
54. Servants giving false information.
55. Frauds connected with pocket-register.
Fraudulent secreting or destruction.
Fraudulent use.
Fraudulent delivery or receipt.
Issuing or signing false pocket-register or entry.
Using as true pocket-register one known to be false.
56. Fees.
57. Savings.

FIRST SCHEDULE.—Acts repealed.
SECOND SCHEDULE.—Forms.

A Bill to define and amend the law relating to Master and Servant.

Whereas it is expedient to define and amend the law relating to Master and Servant; It is hereby enacted as follows:— Preamble.

CHAPTER I.—PRELIMINARY.

1. This Act may be called "The Master and Servant Act, 1877;" Short title.

It extends to the whole of British India; Local extent.

And it shall come into force on the first day of *March* 1878. Commencement.

2. On and from that day the Acts specified in the schedule hereto annexed shall be repealed. But all powers conferred under either of such Acts shall be deemed to have been conferred under this Act. And all references to either of such Acts shall be deemed to be made to this Act. Enactments repealed.

Nothing herein contained affects— Enactments saved.

(*a*) Act No. I of 1859 (*for the amendment of the law relating to Merchant Seamen*),

(*b*) Act No. VII of 1871, Act No. III of 1876, Bengal Act No. VII of 1873, or any other law regulating the emigration or transport of Native labourers and their contracts of service, or

(*c*) the rules as to compensation contained in the Indian Contract Act, 1872.

CHAPTER II.—OF THE CONTRACT OF SERVICE.

3. A contract binding one party to employ and remunerate, and the other to do any work in such manner as the former party directs, is called a contract of service: the remuneration contracted for is called the wages: the party contracting, by himself or his agent, to employ and remunerate is called the master; and the party contracting to do the work is called the servant. Contract of service. Wages. Master. Servant.

A domestic servant is a servant who does household work within his master's house or compound. Domestic servant.

4. The provisions herein contained as to the death of a master or a servant apply, where the master or servant is a private partnership, to its dissolution, and where the master or servant is a public company, to the completion of its winding-up. Application of provisions as to death.

5. Every person competent to contract may enter into a contract of service. Persons competent to enter into contracts of service.

Explanation.—For the purposes of this section a minor is competent to contract; but the contract cannot be enforced against him.

6. In the absence of express provision as to the amount of wages, the servant is presumed to contract for the remuneration ordinarily paid, at the place and time of entering into the contract, to servants of the same class. Presumption as to wages.

7. In the absence of express provisions as to the term of service and the mode of terminating the contract— Presumption as to term of service.

(*a*) a domestic servant is presumed to be hired for a month, and the contract is terminable, on the part of either master or servant, by fifteen days' notice of his intention to put an end to the service, or by payment or tender of fifteen days' wages in advance;

(*b*) a tutor, governess, clerk or other servant not a domestic servant, and not merely mechanical or agricultural or hired by piecework, is presumed to be hired for a year, and the contract is terminable, on the part of either master or servant, by three months' notice of his intention to put an end to the service, or by payment or tender of three months' wages in advance;

(*c*) a merely mechanical or agricultural servant and a person hired by piecework are presumed to be hired for no specific term, and the contract is terminable, at the will of either party, by notice to the other that the service is at an end.

8. Any notice of intention to put an end to service, whether given under the contract or under section 7, may be withdrawn by the party giving it and waived by the parties respectively, and thereupon the service shall continue as if no such notice had been given. Withdrawal of notice.

9. A contract of service is terminated— Termination of contract.

(*a*) by the death of the master, unless where the contract provides otherwise:

(*b*) by the death of the servant:

(*c*) by mutual consent of the parties:

(*d*) on expiration of the term of service:

(*e*) on expiration of a notice to put an end to service duly given under the contract or under section 7:

(*f*) by payment or tender of wages under section 7:

(*g*) when the master rightfully discharges the servant:

(*h*) when the servant rightfully quits his master's service.

10. Where, after the termination of a contract of service, the parties continue the relation of master and servant, they are presumed to have renewed the contract for the same wages and term of service. Presumption of renewal of contract.

CHAPTER III.—OF THE RIGHTS OF THE MASTER AND THE DUTIES OF THE SERVANT.

11. When a servant refuses to enter his master's service, the master is entitled to compensation for the injury caused by the refusal, unless the servant is prevented by some cause over which he has no control from performing his contract. Master's right to compensation when servant refuses to enter service.

12. When a servant has entered his master's service, he is under the following obligations:— Obligations of servant after entry.

(*a*) he must continue in such service during the whole time that he has contracted for, unless he has rightfully terminated it:

(*b*) he must run all risks incident to the service:

(*c*) he must obey all lawful orders of his master and of any person to whom the master has expressly or impliedly delegated power to give such orders:

(*d*) he must be honest and diligent in his master's business:

(*e*) he must be respectful to his master and, in the case of a domestic servant, the members of his master's family:

(*f*) he must take the same care of his master's property entrusted to him as he would be bound to take if he were a bailee:

(*g*) he must indemnify his master from liability to make compensation for injury caused by any wrongful act or omission of the servant:

(*h*) he must use his best endeavours to protect his master against the wrongful acts or omissions of his fellow-servants, if any:

(*i*) he must, as often as may be reasonable, account for money or goods received from or on account of his master, and must, without demand, deliver to his master as soon as, with reasonable diligence, he can find him, everything that he receives on his master's account:

(*j*) he must not set up the title of any third person to money or goods so received, in opposition to his master's title thereto, except where the master's title accrued fraudulently or wrongfully, or under a voidable contract which has become void.

13. The whole time of domestic servants belongs to the master; and the time of other servants to such extent as is usual in the business in which they serve. Time of servant.

14. Except for the purpose of maintaining discipline on board a merchant ship, no master shall inflict any punishment on his servant, by way of imprisonment, corporal chastisement, forfeiture of wages or otherwise, whether the servant has or has not attained majority. Master's power to punish.

Nothing contained in this section renders illegal any contract under which the master may, in the events therein specified, withhold the whole or any part of the servant's wages.

15. A master may discharge his servant, whether hired for a fixed term or not, for any of the following causes:— Master's power to discharge.

(*a*) wilful disobedience of any lawful order of the master or of any person to whom the master has, expressly or impliedly, delegated power to give such order:

(*b*) habitual negligence in the master's business:

(*c*) conduct likely to injure such business materially:

(*d*) claiming to be a partner with his master:

(*e*) incompetence to discharge the duties for which the servant was hired:

(*f*) permanent disability from illness:

(*g*) imprisonment in a civil or criminal jail:

(*h*) failure to perform any of the obligations imposed upon him by section 12, clauses (*e*), (*f*), (*g*), (*h*), (*i*) and (*j*):

(*i*) gross moral misconduct while in the master's service, or reasonable belief, on the part of the master, in the existence of such misconduct:

(*j*) or if the master discovers that the servant has been guilty of misconduct, before or after the commencement of his service, of such nature, that if the master had known or foreseen it, he would not have employed him.

The existence of any such cause, though not known to the master at the time of the discharge, is sufficient to justify a discharge under this section.

16. A master is entitled to compensation from any one who, knowing that any person is the servant of the master, deprives the master of the services of such person in any of the following ways (namely):— Master's right to sue for compensation for loss of service.

(*a*) by enticing him away from his master;

(*b*) by harbouring and detaining him;

(*c*) by any act punishable under the Indian Penal Code, chapter XIV or XVI;

(*d*) in the case of a female servant, by seducing her.

Compensation may be recovered under this section, clauses (*a*) and (*b*), not merely for the loss of service, but also for the detriment (if any) resulting therefrom to the master.

Compensation may be recovered under this section, clause (*c*), for the loss of service down to the time when it appears by the evidence that the disability to serve may reasonably be expected to cease.

Compensation may be recovered under this section, clause (*d*), for loss of service and for the expenses (if any) reasonably incurred by the master in nursing and taking care of the servant during her pregnancy and about her delivery.

Master's right to sue or wages earned by servant from third person.

17. Where wages have been earned by a servant and enticed away or harboured by another person knowing him to be a servant, the master may waive his right to sue under section 16, and recover from such other person the amount of the wages so earned.

Where a third person employs a servant during any time belonging to his master, whether with or without the master's knowledge and consent, the master may recover the amount of the wages (if any) so earned, unless he has waived his right thereto.

Effect of servant's contributory negligence.

18. A master is not entitled to compensation for injury caused by the wrongful act or omission of a third person, when the master's servant, in the course and within the scope of his employment, might by the exercise of ordinary care have prevented such act or omission.

CHAPTER IV.—OF THE RIGHTS OF THE SERVANT AND THE DUTIES OF THE MASTER.

Servant's right to compensation from master refusing to receive into service.

19. Where a master refuses to receive his servant into his service, the servant is entitled to compensation for the injury caused by such refusal, unless the servant is at the date of the refusal (*a*) incompetent to discharge the duties for which he was hired, or (*b*) permanently disabled by illness.

When the service is to begin on a future day, a suit for such compensation may be brought, at the option of the plaintiff, either immediately on the refusal or on or after such future day.

Illustration.

(*a*) A, in September, engages a servant, B, at Rs. 30 per mensem to accompany him on a tour for three months through India, to commence on the 1st of November. In October, A writes to B saying that he has changed his mind and no longer requires B's services. B thereupon institutes a suit against A for compensation. Afterwards, before the 1st of November, B obtains another engagement at Rs. 30 per mensem to commence on the 1st December. B, being neither incompetent nor disabled, is entitled to a decree for compensation against A.

Obligations of master—

20. Where a servant has entered his master's service, the master is under the following obligations:

as to retaining servant;

(*a*) he must retain the servant during the whole time that he has contracted to do so, unless in case of discharge under section 15:

as to payment of wages;

(*b*) he must pay the wages which he has contracted to pay; provided that, where such wages are payable periodically, and the servant is rightfully discharged, the servant is not entitled to any wages for the portion of time during which he has served since the last preceding periodical payment:

as to indemnifying servant;

(*c*) he must indemnify the servant from liability for doing any act pursuant to an order of his master which he was bound to obey, or any unlawful act, which the servant, not having reason to believe it to be unlawful, was induced by the conduct of his master to believe to be lawful:

as to compensating servant for injury caused by master's neglect;

(*d*) he must make compensation to the servant for injury caused to such servant solely by the master's personal neglect or want of skill:

as to fellow-servants;

(*e*) when the servant has to work along with fellow-servants, the master must use his best endeavours to provide fellow-servants of ordinary skill and care:

Explanation.—In this clause the expression "fellow-servants" means servants of one master jointly engaged on his behalf in the same operation:

as to servants employed in dangerous work.

(*f*) where the servant is employed in a work of danger, the master must provide proper materials and apparatus for the work, and must take all other reasonable precautions so as to protect the servant against unnecessary risk.

Illustrations.

(*a*) A, a servant, in obedience to the command of his master, B, commits a trespass on the property of C, not having reason to believe that he is doing any injury. C sues A for damages and recovers Rs. 50. A is entitled to recover the Rs. 50 from B.

(*b*) A hires B, a brickmaker, to make bricks with C's trademark thereon. B, having no reason to believe that the trademark was C's, proceeds to make the bricks accordingly. C sues B to restrain him from using the trademark and obtains an injunction with costs which B pays. B may recover the amount so paid from A.

(*c*) A orders his servant B to sell an unsound mare, but not to warrant her soundness. B sells the mare to C with a warranty of soundness. C sues and recovers damages from B. B cannot recover these damages from A.

(*d*) A, a master-builder, personally directs his workmen to make a scaffold out of poles which he knows to be unsound. The scaffold gives way, and B, a workman upon it in A's employ, falls and breaks his leg. B may sue A for compensation for this injury.

(*e*) A and B are lessees of a coal-pit. B acts as banksman at the mouth of the pit, and whilst so acting is guilty of negligence whereby C, a pitman in the service of A and B, is injured. Both A and B are liable for the injury.

Servants' right to compensation for breach of duty imposed by section 20, clauses (*e*) and (*f*).

21. When a servant has sustained particular injury by a breach of any of the obligations imposed on his master by section 20, clauses (*e*) and (*f*), the servant is entitled to compensation for such injury, provided that he could not have avoided the injury by the exercise of ordinary care, and at the time of the injury he had no reason to believe that the breach had been committed.

Illustrations.

(*a*) A employs B and C to row, and D to steer, his boat. A has done nothing to ascertain D's competence to act as steersman. Owing to D's want of ordinary skill, the boat collides with a ship in full sail, and B and C are injured. B and C may sue A for compensation.

(*b*) A railway company employs A to drive a locomotive, B to be guard of a train and C to regulate the switches. The company has neglected to ascertain that C was ordinarily careful, and owing to his carelessness the train runs off the line and A is killed and B is maimed. A's legal representative and B may sue the company for compensation.

(*c*) A employs B to work as his servant in a mine. Owing to A's negligence the roof of the mine is left unsafe. B, having no reason to believe in the existence of the danger, begins to work in the mine and a stone falls from the roof and breaks B's leg. B may sue A for compensation.

(*d*) A orders his servant B to carry a bag of rice up a ladder, which A knows, but B has no reason to believe, to be unsafe. The order is within the scope of B's service and B obeys it. The ladder breaks and B falls and fractures his thigh. B may sue A for compensation.

Negligence of foreman.

22. Where a servant sues for compensation for injury caused by breach of any obligation imposed by section 20, clauses (*e*) and (*f*), and establishes against any foreman or other agent empowered to direct the work in performing which the injury was received, or to manage any apparatus employed in that work, such proof of negligence in providing fellow servants or taking precautions as would make him liable if he were himself the master, his negligence shall be deemed to be negligence on the part of the master.

Compensation for wrongful dismissal.

23. When a servant is wrongfully discharged, he is entitled to compensation for the injury caused by the discharge in not being allowed to serve and earn the wages contracted for.

Measure of compensation.

The amount of such compensation is subject to the following rules in cases to which they are applicable:—

(*a*) When the contract is to employ for a specified term, the amount shall be the difference between the wages which the servant would have received under his contract with his master and the wages which he has, or might reasonably have, received under another contract of service:

(*b*) When the contract is termipable by fifteen days' notice, the amount shall be fifteen days' wages.

(*c*) When the contract is terminable by three months' notice, the amount shall be three months' wages.

Termination of service by servant for master's fault.

24. A contract of service, even for a specified term, may be terminated by the servant at any time

(*a*) in case of any wilful or permanent breach of the obligations of his master to him as a servant;

(*b*) if the master commits against the servant any offence punishable under the Indian Penal Code, Chapter XVI, XVII, XXI or XXII;

(*c*) if the servant is prevented by permanent illness or other cause over which he has no control from fulfilling his contract.

Illustrations.

(*a*) A contracts to serve B for a year for the monthly sum of Rs. 100. B refuses to pay the amount due to A for the first month. A may at any time during the year terminate the contract.

(*b*) A, a sailor, contracts with B, the master of C's ship, for a voyage out and home. During the outward voyage B voluntarily and unlawfully causes grievous hurt to A. A may at once terminate the contract.

Wages of servant in case of wrongful discharge or termination of contract for master's fault or by death.

25. When the servant is wrongfully discharged, or when the contract is terminated under section 24 or by the death of either party, the servant or his legal representative, as the case may be, is entitled to the wages (if any) due for the period during which he has actually served the master.

For the purpose of this section all wages shall (in the absence of an express agreement to the contrary) be deemed to accrue due from day to day.

CHAPTER V.—OF THE LIABILITY OF ONE FELLOW-SERVANT TO ANOTHER.

Liability of one fellow-servant to another.

26. One fellow-servant is liable to make compensation to another for injury caused by neglect or want of skill whilst jointly engaged on behalf of their common master.

CHAPTER VI.—OF THE LIABILITY OF A MASTER TO THIRD PERSONS FOR THE ACTS OF HIS SERVANT.

When servant may bind master by contract

27. A servant may bind his master by contracts entered into in his master's name only when the servant, if he were an agent, could bind his master if he were that agent's principal.

Liability of master for wrongful acts of servant.

28. A master is ordinarily liable to make compensation for injury caused by the wrongful act or omission of his servant, if that act or omission occurred in the course and within the scope of the servant's employment. And the circumstance that the act or omission was not necessary for the proper performance of the servant's duty, or was contrary to his master's orders, does not relieve the master from such liability.

Illustrations.

(*a*) A, the servant of B, a pawnbroker, takes a pawn from C, and when C comes and tenders the money due to B refuses to deliver the pawn. C may sue B for compensation for A's wrongful act.

(*b*) A, the shopman of a jeweller B, sells false jewels for true ones to a customer C. C may sue B for compensation for A's wrongful act.

(*c*) A, the servant of a carter, B, negligently runs his cart, over C. C may sue B for the injury caused by A's negligence.

(*d*) A hires horses and a coachman B, from a livery stable-keeper C. B, negligently drives A's carriage over D. Unless A ordered or adopted B's act, D cannot sue A for the injury caused by B, for B is the servant of C and not of A.

(*e*) A, the servant of B, without B's knowledge, wrongfully takes B's carriage and horses for his own purposes and drives against C. B is not liable to a suit by C for compensation for A's wrongful act.

(*f*) A, the officer of a Railway Company authorized to give passengers into custody for travelling without tickets for themselves, but not for travelling without tickets for their horses, gives B into custody for travelling without a ticket for his horses. B cannot sue the Company for compensation for A's act, for A acted beyond the scope of his employment.

(*g*) A hires B as his washerman and C as his coachman. B bringing home A's clothes meets C driving A's carriage and, owing to C's want of ordinary care, is knocked down and injured. B may sue A for compensation.

(*h*) A collision occurs between two steamboats, one belonging to X and commanded by his servant, the other belonging to Y and commanded by his servant. The collision is caused by the negligence of both commanders. Any passenger in either steamboat may sue X or Y, or both, for compensation for personal injury suffered in the collision.

Master when not responsible for servant's negligence.

29. Nothing in section 28 shall render a master responsible for injury caused by his servant's default—

(*a*) to any person above the age of ten years who might, by the exercise of ordinary care, have avoided the injury;

(*b*) where the master has been obliged by law to employ the servant;

(*c*) where the master is a public servant and the servant is in his employment as such;

(*d*) where the person injured by the default is a fellow-servant of the wrong-doer jointly engaged on behalf of the master in the same operation, and the master had used his best endeavours to ensure that the wrong-doer was a person of ordinary skill and care.

Volunteers.

30. For the purposes of section 28 and section 29, persons expressly or impliedly permitted by another person to act as his servants without remuneration are servants of such person.

CHAPTER VII.—OF THE LIABILITY OF A SERVANT TO THIRD PERSONS FOR ACTS DONE ON BEHALF OF HIS MASTER.

Servant when bound by contract in master's name.

31. A servant, other than a domestic servant, is bound by contracts entered into in his master's name only where the servant, if he were an agent, would be personally liable.

A domestic servant is bound by such contracts only where he has entered into them without his master's authority.

Servant when liable to third person for wrongful act.

32. Where a servant, acting on behalf of his master, does a wrongful act to a third person, the servant is liable to be sued as a principal by such third person for compensation for the injury caused by such act. But where a servant (other than a public servant) is guilty of negligence only, no such liability arises, except in the case provided for by section 26. Public servants guilty of negligence are liable to be sued by the persons injured thereby for compensation for such injury.

CHAPTER VIII.—OF FORMS.

Use of forms in second schedule.

33. Subject to the power conferred on the High Courts by the Code of Civil Procedure, section 639, and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

CHAPTER IX.—OF THE JURISDICTION OF MAGISTRATES IN DISPUTES BETWEEN MASTER AND SERVANT.

Failure to perform work on account of which servant has received an advance.

34. When a master advances to a mechanical or agricultural servant money on account of any work which he has contracted to execute, and such servant wilfully and without sufficient excuse neglects or refuses to perform his contract, the master may complain to a Magistrate, who shall thereupon issue a summons or warrant, as he thinks fit, for bringing such servant before him.

If the Magistrate after hearing such evidence as the parties may adduce is satisfied of the truth of the complaint, he shall, at the option of the master, order the servant, on or before such day as the Magistrate directs, either

(*a*) to repay the money advanced or such part thereof as the Magistrate thinks fit, or

(*b*) to execute the work according to the terms of the contract.

If the servant fails to comply with either of such orders, the Magistrate may sentence him to imprisonment for a term which may extend to three months, or, when the order is for repayment of a sum of money, for such term or until such sum is sooner repaid.

Where the Magistrate makes an order under clause (*b*) of this section, he may also, at the master's request, require the servant to enter into a recognizance, with sufficient security for the due performance of the order; and in default of his entering into such recognizance, or furnishing such security to the satisfaction of the Magistrate, may sentence him to imprisonment for a term which may extend to three months.

Disputes between masters and workmen on railways, &c.

35. Any Magistrate may enquire into and decide disputes as to wages, hire of carriage, and price of work between any masters and their servants employed in the construction of any railway, canal or other public work sanctioned by Government: Provided that the amount in dispute does not exceed two hundred rupees.

Cases under this section shall be dealt with, so far as may be, in accordance with the Code of Civil Procedure. But there shall be no appeal against the decision in any such case.

When the Magistrate has heard and decided the case, he shall make an order for the payment, immediately or within such time as he directs, of such sum of money (if any) as appears to him to be justly due, and such sum shall be recoverable as if it were a fine.

Punishment for breach of contract to work for fixed term on railway, &c.

36. Whoever contracts to work for a specified term on any such railway, canal or other public work, or to execute any specific work in connection therewith, and who wilfully and without sufficient excuse neglects or refuses to perform such contract, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty rupees.

Power to order performance of contract.

But the Magistrate may, at the request of the master, instead of punishing the servant so neglecting or refusing, order him by himself or another to execute the work according to the terms of his contract; and if he fail to comply with such order, the Magistrate may sentence him to imprisonment for a term which may extend to two months.

'Master' and 'Magistrate.'

37. In this chapter "master" includes also any person authorized to act on behalf of a master; and "Magistrate" means, in the towns of Calcutta, Madras and Bombay a Presidency Magistrate, and elsewhere a Magistrate empowered by the Local Government to act under this chapter.

CHAPTER X.—OF THE REGISTRATION OF DOMESTIC SERVANTS.

Power to establish registry-office and appoint Registrar.

38. The Local Government may from time to time by notification published in the official Gazette, (*a*) establish for any local area an office for registering domestic servants, to be called a Servants' Registration-office, (*b*) appoint such person as it thinks fit to be Registrar of such office, and to keep a general Register of domestic servants for such local area, and (*c*) make rules consistent with this chapter for the guidance of such Registrar in the discharge of his official duties.

Masters to cause servants to be registered.

39. Within one month of publishing a notification establishing a Servants' Registration office and appointing a Registrar of such office, every master of domestic servants, residing in the local area comprised in such notification shall, in order that such servants may be registered in the general Register, make, sign and send to the Registrar a list showing in the case of each of the said servants his name, the capacity in which he is employed, and the date on which he entered his master's service.

Masters to supply lists to Registrar.

Servants to attend personally.

40. Within three months of such publication, every such servant shall attend personally before the Registrar, and furnish him with such information as regards the servant's age, caste, country, religion, previous service, and other particulars as the Registrar may require.

Record in general Register.

41. The Registrar shall, on such servant so attending, register him by recording in the general Register (*a*) the servant's name, father's name, caste, religion, birth-place, age or supposed age, height and personal marks, (*b*) his master's name, (*c*) the capacity in which he is employed, and (*d*) such statement of his previous service as he desires to have recorded in such Register: Provided that the Registrar shall not make any such record without having reason to believe the statements contained therein.

Issue of pocket-register.

The Registrar shall thereupon issue to the servant a pocket-register in which shall be entered under the Registrar's hand the particulars of the record respecting the servant in the general Register.

Servants quitting employment before pocket-registers delivered.

42. If within three months of the said publication, the contract of service of any servant mentioned in the list furnished by any master to the Registrar under section 39 is determined otherwise than by the death of either party, the master shall make, sign and send the Registrar a memorandum of the date and cause of such termination, unless the servant has previously obtained his pocket-register.

Registration of persons desiring to become domestic servants.

43. The Registrar shall receive applications from any person desirous of becoming a domestic servant. If the Registrar has reason to believe such applicant to be fit to become a domestic servant, he shall register him by recording in the general Register, (*a*) the applicant's name, father's name, caste, religion, birth-place, age or supposed age, height and personal marks, and (*b*) the names and residences of any persons who certify to his respectability. And the Registrar shall thereupon issue a pocket-register to such applicant, in which shall be entered under the Registrar's hand the particulars of the record respecting the applicant in the general Register.

Refusal to register such persons.

If the Registrar has not reason to believe that the applicant is fit to become a domestic servant, he shall refuse to register him.

Registration when to be refused.

44. The Registrar shall not register any person who 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 any person who has been convicted of any offence under chapters XVI, XVII and XIX of the Indian Penal Code.

Master not to hire unregistered servant.

45. After three months have elapsed from the said publication, no person residing in the said local area shall hire a domestic servant who fails to produce his pocket-register in evidence of his being registered, or whose pocket-register does not record the termination of his last previous contract of service, if any.

Duty of master on hiring registered servant.

46. On hiring a servant registered under this chapter, the master shall require him to produce his pocket-register, and shall enter therein under his hand the date of the contract of service, and the capacity in which such servant is employed.

Master to enter date and cause of termination of service.

47. Whenever the contract of service of any servant registered under this chapter is terminated otherwise than by the death of either party, the late master shall require the late servant to produce his pocket-register, and shall enter therein under his hand a

Entry of character.

memorandum of the date and cause of such termination, and the character of such servant:

Proviso.

Provided that if for any reason the late master is unwilling to give the late servant a character, or to state the cause of such termination, he may refuse to do so; but in that case he shall make, sign and send to the Registrar a memorandum stating his reasons for such refusal:

Report of failure to produce pocket-register.

If the late master be unable to make such entry through the failure of the late servant to produce his pocket-register, he shall report the fact to the Registrar.

Servants to attend Registrar for pocket-register entries to be transferred to general Register.

48. Every servant registered under this chapter shall, within fifteen days from the date of any subsequent entry in his pocket-register, attend personally at the Servants' Registration-office and produce his pocket-register for the purpose of having such entry recorded in the general Register.

49. Every servant registered under this chapter shall produce his pocket-register when called upon to do so by any officer of Police.

Servants to exhibit pocket-registers to Police.

Whenever any servant registered under this chapter is convicted of any offence, the convicting Magistrate shall enter in the servant's pocket-register the fact of the conviction, the date of the conviction and the punishment inflicted upon him, and shall communicate such entry to the Registrar of Servants for the local area in which the servant was registered.

Entry in case of conviction.

50. Every servant registered under this chapter shall, if he subsequently enters into, terminates, or is discharged from a contract of household service, in any local area for which a Servants' Registration-office has not been established, attend personally at the nearest Police-station, state to the principal officer at such station the date of such entry, termination or discharge, and produce his pocket-register to such officer; who shall then enter under his hand such date therein, and communicate such entry to the Registrar of Servants for the local area in which such servant was registered.

Registered servants entering service, &c., in places where there is no servants' registration-office.

51. The Registrar may issue duplicate pocket-registers to replace the originals which have become worn out, or which have been lost or destroyed.

Duplicate pocket-registers.

52. Any master or late master guilty of any of the following acts or omissions shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees:—

Masters not fulfilling any duty imposed on them by this chapter.

(*a*) failing to furnish to the Registrar, within one month after a Servants' Registration-office has been established in any local area, the list specified in section 39;

(*b*) failing to send the Registrar the memorandum required by section 42;

(*c*) hiring a domestic servant, three months after this chapter has come into operation, who fails to produce his pocket-register, or whose pocket-register does not record the termination of the last previous contract of service, if any, as provided by section 45;

(*d*) failing to enter in the pocket-register the date and capacity in which a domestic servant is hired, as required by section 46;

(*e*) failing to enter in such pocket-register the date and cause of the termination of a contract of service, or to report his inability to make such entry, as required by section 47;

(*f*) failing, when he refuses to give his domestic servant a character, or to state the cause of the termination of the contract of service, to furnish to the Registrar his reasons for such refusal, as required by section 47.

53. Any domestic servant or late domestic servant guilty of any of the following omissions shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees:—

Servants not fulfilling any duty imposed upon them by this chapter.

(*a*) failing to attend the Registrar and furnish him with the information required by section 40;

(*b*) failing to produce his pocket-register under section 46, 47, 48, or 49;

(*c*) having been registered under this chapter and failing to comply with the requirements of section 50.

54. Any domestic servant or late domestic servant giving false information on any matter on which he is required by this chapter to give information to the Registrar or to any other person, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both.

Servants giving false information.

55. Whoever does any of the following acts (namely),

Frauds connected with pocket-register.

(*a*) fraudulently or dishonestly secretes, destroys, obliterates or renders illegible, or attempts to secrete, destroy, obliterate or render illegible, any pocket-register issued under this chapter, or any entry therein, or

Fraudulent secreting or destruction.

(*b*) fraudulently or dishonestly uses or attempts to use as his own any such pocket-register, or

Fraudulent use.

(*c*) fraudulently or dishonestly delivers to or receives from any other person any such pocket-register,

Fraudulent delivery or receipt.

(*d*) issues or signs any such pocket-register, or any entry therein knowing or having reason to believe that such pocket-register or entry is false in any material point,

Issuing or signing false pocket-register or entry.

(*e*) corruptly uses or attempts to use any such pocket-register as a true pocket-register, knowing the same to be false in any material point,

Using as true pocket-register one known to be false.

shall be punished with imprisonment which may extend to one year, or with fine which may extend to two hundred rupees, or with both.

56. The following fees shall be levied under this chapter, and shall be paid by masters or servants or intending servants, as the case may be, in adhesive stamps, to be affixed to the servant's pocket-register, and cancelled by the Registrar:—

Fees.

Fee payable by master on causing an existing servant to be registered	Four annas.
Fee payable by master on hiring a new servant	Ditto.
Fee payable by intending servant on provisional registration ...	Ditto.
Fee payable by intending servant on registration being confirmed...	Ditto.
Fee payable by servant for registering statement of previous service	Ditto.
Fee payable by servant for a duplicate pocket-register ...	One rupee.

57. Nothing in this chapter applies to servants born in Europe, America or Australasia; and, save as provided by sections 49, 50, 53, 54 and 55, nothing in this chapter applies to any person in any local area for which a Servants' Registration-office has not been established.

Savings.

THE FIRST SCHEDULE.

(*See section* 2).

No. and year.	Title.	Extent of repeal.
XIII of 1859...	An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Labourers in certain cases.	The whole.
IX of 1860 ...	An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other Public Works and their employers.	The whole.

THE SECOND SCHEDULE.

(*See section* 33).

A.—FORMS OF PLAINTS AND WRITTEN STATEMENTS IN SUITS ON CONTRACTS OF SERVICE.

1. *Against a master for refusing to receive into service.*

In the Court of at
Civil Suit No.
A. B. of
against
C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant and serve him for [*one year*] from the day of *A. D.* in the capacity of [*clerk*] to the defendant at the wages of Rs. a month, the defendant on the day of *A. D.* promised the plaintiff to receive him into the said service and to retain him therein for the period and on the terms aforesaid.

2. That all conditions were fulfilled and all things happened, and all times elapsed necessary to entitle the plaintiff to be received and retained by the defendant in his said service in the capacity and on the terms aforesaid.

3. That the defendant did not nor would receive the plaintiff into his said service and retain him therein for the period and on the terms aforesaid.

4. The plaintiff prays judgment for Rs.

2. *By a servant against his master for not receiving him into his service, with statement of damage.*

(*Title.*)

1. That it was agreed by and between the plaintiff and the defendant that the plaintiff should enter into and continue in the service of the defendant, and that the defendant should receive and retain the plaintiff in such service in the capacity of until the expiration of a reasonable notice to be given by either of them to the other to determine such service at a salary at the rate of Rs. 1,200 a year to be paid by the defendant to the plaintiff in that behalf.

2. That [as in form No. 1, paragraph 2]; whereby the plaintiff lost the profits and emoluments which would have accrued to the plaintiff from being received into and retained in the said service of the defendant as aforesaid, and was also deprived of the opportunity of being retained and employed by any other person, and remained out of service and unemployed for a long time, and lost the benefit of divers expenses which the plaintiff necessarily incurred in and about entering into and preparing to perform the said agreement on the plaintiff's part.

[*Demand of Judgment.*]

3. *For a wrongful dismissal.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant and serve him for a year from the day of 18 . [*or* until the service should be determined as hereinafter mentioned] in the capacity of at the wages of Rs. per month, the defendant promised the plaintiff to retain him in the said service in the capacity and on the terms aforesaid during the said year [*or* until the expiration of three months' notice to be given by the plaintiff or defendant to the other of them to determine the said service].

2. That the plaintiff entered into the said service in the capacity and on the terms aforesaid, and so continued therein for a part of the said year [*or* for a long time], and until the breach of the said promise hereinafter alleged, and was always ready and willing to continue in the said service during the remainder of the said year [*or* until the said service should be determined as aforesaid], whereof the defendant always had notice.

3. That the defendant before the expiration of the said year [*or* without any such notice as aforesaid having been given by either the plaintiff or defendant to the other of them to determine the said service, *or* before the expiration of any such notice as aforesaid], dismissed the plaintiff from the said service and refused to retain the plaintiff therein for the remainder of the said year [*or* until the said service should be so determined as aforesaid], whereby the plaintiff was deprived of the wages and profits which he would have had from being retained in the said service and remained for a long time unemployed.

Written Statement by the Defendant.

(*Title.*)

C. D., the above-named defendant, states as follows:—

Three months before the defendant dismissed the plaintiff from the said service as alleged, the defendant gave to the plaintiff [*or* the plaintiff gave to the defendant] three months' notice of his intention to put an end to the said service.

Written Statement by the Plaintiff.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

After the giving of the said notice and before the expiration thereof and before the defendant dis-

missed the plaintiff as alleged, the plaintiff and defendant agreed that the said notice should be withdrawn by the plaintiff [*or* defendant] and waived by the plaintiff and the defendant respectively, and that the said service should not determine according to the said notice, but should continue as if no such notice had been given, and thereupon the said notice was then so withdrawn and waived accordingly.

---

4. *By a domestic servant entitled to a fortnight's warning or a fortnight's wages against his master for a wrongful dismissal.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant in the capacity of a [*bearer, khidmatgár, butler, or as the case may be*], and would serve him in that capacity until the service should be determined as hereinafter mentioned at the wages of Rs. per month, the defendant promised the plaintiff to retain him in the defendant's service in the capacity and at the wages aforesaid until the expiration of fifteen days after notice given by the plaintiff or the defendant to the other of them to put an end to such service, and that in case the defendant should put an end to such service without such notice he should pay to the plaintiff a proportionate part of such wages as aforesaid for fifteen days.

2. That the plaintiff accordingly entered into the said service of the defendant, and has always been ready and willing to continue therein in the capacity and on the terms aforesaid of which the defendant always had notice.

3. That the defendant wrongfully dismissed the plaintiff from the said service without any such notice as aforesaid and without paying the plaintiff such proportionate part of the said wages as aforesaid: whereby the plaintiff was deprived of the wages and advantages which he would otherwise have derived from the said service and has remained for a long time unemployed.

[*Demand of Judgment.*]

---

5. *By a Servant against the Administrator of his Master.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff was in the service of *E. F.* in his life-time in the capacity of a [*bearer, or as the case may be*] at certain wages and on the terms that such service should continue until either the plaintiff or the said *E. F.* should determine the same by giving the other of them fifteen days' notice of his intention so to do: and thereupon in consideration that the plaintiff would continue in the service of the said *E. F.* in the capacity aforesaid until the death of the said *E. F.*, the said *E. F.* promised the plaintiff to pay him Rs.

2. That the plaintiff accordingly continued in the service of the said *E. F.* in the capacity foresaid until the death of the said *E. F.*, and all conditions were fulfilled and all things happened and all times elapsed necessary to entitle the plaintiff to be paid the said sum of Rs. , yet the same remains due and unpaid to the plaintiff.

3. That the defendant is administrator of the estate of the said *E. F.*

[*Demand of Judgment.*]

B.—PLAINTS IN SUITS FOR WRONGS.

6. *For enticing away the plaintiff's servant.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *G. H.* was and still is the servant of the plaintiff in his business of a , and the defendant well knowing the same wrongfully enticed and procured the said *G. H.* unlawfully and without the consent and against the will of the plaintiff to depart from the said service of the plaintiff; whereby the plaintiff lost the services of the said *G. H.* in his said business.

[*Demand of Judgment.*]

Written Statement by the Defendant.

C. D., the above-named defendant, states as follows:—

That the said *G. H.*, was not the servant of the plaintiff as alleged.

---

7. *For receiving and harbouring the plaintiff's servant.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *G. H.* was and still is the servant of the plaintiff in his business of a , and unlawfully and without the consent and against the will of the plaintiff departed from the service of the plaintiff.

2. That the defendant well knowing the premises, wrongfully and without the consent and against the will of the plaintiff, received, harboured and detained the said *G. H.*, and refused to deliver the said *G. H.* to the plaintiff although requested by the plaintiff so to do; whereby the plaintiff lost the service of the said *G. H.* in his said business.

[*Demand of Judgment.*]

---

8. *By a servant against his master for employing him to work upon an unsafe scaffolding.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff was employed as a [*bricklayer*] by the defendant to do certain work for the defendant upon a certain scaffolding constructed by the defendant for that purpose.

2. That the said scaffolding was by the negligence and default of the defendant [*or* of the defendant's foreman] constructed unsafely and with defective and improper materials, and was in an unsafe condition, and unfit for the purpose aforesaid, which the defendant [*or* the defendant's foreman] well knew, but which the plaintiff had no reason to believe.

3. That by reason of the premises whilst the plaintiff was so employed as such [*bricklayer*] as aforesaid doing the said work upon the said scaffolding, the said scaffolding broke and gave way, and thereby the plaintiff was thrown to the ground, and his leg was broken, and he was permanently injured and rendered unfit for work, and incurred expense for medical attendance.

[*Demand of Judgment.*]

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend and codify the law governing the relation of Master and Servant. The want of a compact and definite system of law upon this subject has long been felt. This want, it is hoped, will be supplied by the present Bill. The Bill is based mainly upon the English law; but a few deviations from that law have been made; and some provisions have been adopted from the Prussian and New York Codes. The Bill, further, contains provisions for the registration of domestic servants. A desire for legislation in this direction has, at various times, been strongly expressed in many quarters; and it is hoped that the rules in the present Bill upon this subject will be found effective in practice. In substance they have been mainly taken from the Ceylon Ordinance No. 28 of 1871, which is now successfully in operation at Colombo.

The Bill is divided into ten chapters.

Preliminary.

Chapter I contains the usual preliminary matter, and saves the provisions of the Indian Contract Act, 1872, as to compensation. The Acts relating to emigrant labourers and merchant seamen are also saved.

The Contract of Service.

Chapter II deals with the contract of service, which it defines so as to include contracts of service of every description. A domestic servant is also defined as one "who does household work within his master's house or compound." This definition is made wider in its terms than the definition of the corresponding class of servants in English law, in order to include table servants and others who, in this country, do not usually sleep in their master's house. It declares that every person competent to contract may enter into a contract of service; and supplies an omission of the Indian Contract Act, 1872, section 11, by providing that a minor may enter into such a contract, but that it cannot be enforced against him. It declares that in the absence of express provision on that head, the servant's remuneration shall be presumed to be that ordinarily paid at the time and place of contract to servants of the same class. It provides that in the absence of express provisions as to the term of service and the mode of terminating the contract, it shall be presumed that (*a*) a domestic servant is hired for a month, and the contract is terminable by fifteen days' notice or payment or tender of fifteen days' wages; (*b*) a servant of a higher class is hired for a year, and the contract is terminable by three months' notice or payment or tender of three months' wages; and (*c*) a merely mechanical or agricultural servant hired by piecework is hired for no specific time, and the contract is terminable by notice at the will of either party. The provision for the termination of the contract in the case of domestic servants is drawn from Bengal Regulation VII of 1819. Section 9 sets forth the events which terminate a contract of service; and section 10 provides for the case in which both parties, after the termination of the contract, continue the relation, by directing that it shall then be presumed that the contract has been renewed for the same wages and term of service.

The rights of the Master and the duties of the Servant.

Chapter III defines the master's rights and the servant's duties. It provides for compensation to the master for the wilful refusal of the servant to enter the service. It declares the duties of the servant after entering the service; amongst these duties attention may be directed to (*d*) that of being respectful to his master and, if a domestic servant, to the members of his master's family; (*e*) the servant's liability as a bailee for his master's property entrusted to him; (*f*) his duty to indemnify his master for liabilities to compensate for injury caused by the servant's wrongful act or omission; (*g*) his obligation to endeavour to protect his master against wrongful acts or omissions of his fellow-servants; (*h*) his liability to account for his master's money or goods received by him, and to deliver up as soon as possible, everything he receives on his master's account; and (*i*) which forbids a servant to set up an adverse title to his master's property, unless the master's title accrued fraudulently or wrongfully or under an avoided contract. These provisions, which are somewhat wider in their scope than the English law, include, it is believed, all the proper duties of a servant. In section 13 there is an express provision, adopted from the New York Civil Code, which declares the master entitled to the whole time of his household servants, and such portion as is customary of the time of his other servants. This provision, it is conceived, is in accordance with the present law. By section 14 the punishment in any shape of servants by their master is forbidden, except for the purpose of maintaining discipline on board merchant vessels. But contracts, under which a master may in certain events withhold part of his servant's wages, will not be rendered illegal. Section 15 describes the cases in which the servant may be discharged. These cases include habitually negligent conduct; conduct or claims likely to be materially injurious to the master; incompetence; permanent

disability from illness; imprisonment; breaches of the duties above referred to under section 12; gross moral misconduct or reasonable belief by the master of such misconduct; and the discovery by the master of such misconduct of the servant as would have led the master not to employ him. Section 16 provides for compensation being made to the master by any one knowingly depriving the master of his servant's services, by enticing away, harbouring or detaining the servant; injuring him by acts punishable under chapters XIV and XVI of the Penal Code (relating to offences affecting the public health, &c., and the human body); or, in the case of a female servant, by seducing her. In this latter case the Bill departs, usefully it is thought, from English law by requiring on the part of the seducer knowledge of the master's rights. This section also lays down the usual rules for ascertaining the amount of compensation to be awarded in the cases provided for by this section; and section 17 provides that the master may waive his right to such compensation, and sue for the wages earned by the servant while employed by the wrong-doer. This section also provides for the master's recovering any wages earned by his servant during time belonging to his master, unless the master has waived this right. Section 18 declares that a master is not entitled to be compensated for injuries caused by third persons, when his own servant, acting as such, has by his negligence contributed to cause such injuries.

The rights of the Servant and the duties of the Master.

Chapter IV contains correlative provisions to those of chapter III, and defines the servant's rights and the master's duties. It provides that the master shall compensate a competent servant for refusing to receive him into his service; and gives the servant an option of suing immediately upon the refusal, or of awaiting the time for the commencement of the service. The master's obligations are described in section 20. These include, as well as the obligations to retain and pay the servant, an express duty to indemnify him for liability incurred in obeying his master's lawful orders, or orders which the master's conduct induced the servant to believe lawful. These obligations also include the duty of compensating the servant for injury done by the master; and the last two clauses prescribe that the master must endeavour to provide properly qualified fellow-servants, and must take all reasonable precautions to protect his servant when employed in dangerous work. Section 21 declares the servant entitled to compensation in case of breach of the duties described in the last two clauses, provided that he could not by ordinary care have avoided the injury, and that at the time of the injury he had no reason to believe the breach had been committed. In section 22 a new provision is introduced which seems consonant with justice, which has recently been recommended by the Railway Accidents Commissioners, and which entitles a servant to compensation from the master for injuries caused by a breach of the last two clauses of section 20, when the injury is caused by the negligence of a foreman having the control of the work, or the management of apparatus employed in the work, in performing which the injury is caused. Section 23 declares a servant wrongfully discharged entitled to compensation for such discharge, and contains rules for such compensation. The servant has, by section 24, a right to determine any contract of service at any time for a wilful or permanent breach by his master of his obligations; or if the master commits against the servant an offence punishable under the chapters of the Penal Code relating to the human body, property, defamation and criminal intimidation, &c.; or if the servant is prevented by permanent illness, or other cause over which he has no control, from fulfilling his contract. It is declared by section 25 that, in the case of a servant wrongfully discharged, or whose contract is terminated under section 24, or by the death of either party, the wages are payable for the period of actual service; and that such wages, in the absence of express agreement to the contrary, shall be deemed to accrue due from day to day. This provision will prevent the hardship which frequently arises, under English law, to a servant who, without fault of his own, has not completed his term of service, and who therefore gets nothing for the time he has served.

Liability of fellow-servants.

Chapter V consists of a single section, which provides that one fellow-servant shall compensate another for injury caused by his neglect or want of skill in the common employ. This is in accordance with the Scotch law, and, it seems, with justice; but the American law and, it would appear, the English law also, is otherwise.

Liability of Master to third persons for his Servant's acts.

Chapter VI renders a master liable upon contracts made by his servant in cases when his servant could bind him if the servant were his agent. It declares (section 28) that a master is ordinarily liable for the wrongful acts or omissions of his servant in the course and within the scope of his employment; although such act or omission was not necessary for the performance of the servant's duty, or was contrary to his master's orders. This section will, it is hoped, remove the uncertainty which has prevailed on this subject. Illustration (*k*) to this section is intended to get rid of the strange doctrine as to the identification of passengers by public conveyances with the persons conducting those conveyances

(*Thorogood* v. *Bryan*, 8 C. B. 115). Section 29 saves the master from responsibility in the case of (*a*) contributory negligence of the person injured; (*b*) compulsory employment, as in the case of pilots; (*c*) the servants of public servants; and (*d*) fellow-servants, where the master has performed his duty in properly choosing the wrong-doer. By section 30 volunteers are included in the provisions of sections 28 and 29; and there appears to be no reason that, because they are unpaid, they should be otherwise placed on any different footing from paid servants.

The liability of a Servant to third persons for acts done on behalf of his Master.

Chapter VII provides that a servant, other than a domestic servant, is liable on contracts entered into in his master's name, only when he would be personally liable if he were an agent; and that a domestic servant is liable on contracts unauthorized by his master. This latter provision is inserted because the general rule laid down by the section would impose too great a liability upon servants of this class. The wrongful acts of a servant acting on behalf of his master done to persons not in the service of his master, are provided for by section 32. The servant is liable to the injured person for such acts, but not for negligence, except in the case of public servants.

Forms.

Chapter VIII provides simple forms of plaints and written statements for most of the suits which will lie under the proposed enactment.

Jurisdiction of Magistrates in disputes between Master and Servant.

Chapter IX incorporates the provisions of Act XIII of 1859 (*An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Labourers in certain cases*) and those of Act IX of 1860 (*An Act to make provision for the speedy determination of certain disputes between work-men engaged in Railway and other public works and their employers*), and gives the Presidency Magistrates and all other Magistrates duly empowered jurisdiction to entertain complaints of the kind specified.

The registration of domestic servants.

Chapter X authorizes the Local Government to establish, by notification, a Servants' Registration Office for any local area, and to provide for the working of such offices. It requires (section 39) every master of domestic servants, residing in the local area, within one month of the publication of such notification, to send a list of the names of his servants, the capacity in which they are employed, and the date of entering his service. Every such servant must within three months of such publication, attend personally before the Registrar, and furnish him with such information as he may require for the purposes of the Act. The servant is then to be registered, full particulars relating to him and his service being recorded. The servant is also to be provided with a pocket-register containing the same details. Provision is made in case of the determination, otherwise than by death, of the service of any servant mentioned in the list furnished under section 39. In such case the master must furnish the Registrar with a memorandum of the date and cause of such termination, unless the servant has previously obtained his pocket-register. The Registrar is required to register any applicant desirous of becoming a domestic servant and whom he has reason to believe fit; he is also required to register full particulars as to his person, and the names and residences of any persons who certify to his respectability. A pocket-register is to be thereupon issued to the applicant. The Registrar must refuse to register the applicant if he has not reason to believe him fit to become a domestic servant. He must also refuse to register certain reputed criminals and bad characters. No person may after three months from the publication of the notification under this chapter, hire a domestic servant who fails to produce his pocket-register, or whose pocket-register does not record the termination of his last previous contract of service, if any. The master hiring a registered servant must require him to produce his pocket-register, and must enter therein the date of his contract of service, and the capacity in which he is employed. Similarly the master must, if the service is terminated otherwise than by death, enter the date and cause of such termination, and the servant's character, in his pocket-register; or he may refuse to give the servant a character, or to state the cause of such termination; but he must in that case sign and send to the Registrar a memorandum of his reasons for so refusing. He must also report to the Registrar if he is unable to make such entry as before mentioned through the failure of the servant to produce his pocket-register. The chapter then provides for the attendance of servants at the Registrar's Office for the purpose of having the subsequent entries in their pocket-registers recorded in the general register; for the production of such pocket-registers to the Police, and for entering any conviction of the servant therein. This last provision is taken from the Prussian Landrecht. The chapter then provides for the registration of the commencement or termination of any service of a registered servant which takes place within any local area for which a Servants' Registration Office has not been established. Such registration is to be made at the

nearest Police-station, and information thereof sent to the Registrar of the local area in which the servant was registered. Provision is made for the issue of duplicate pocket-registers in case the originals are lost or worn out. The chapter then provides penalties for breaches of the obligations which it imposes. Penalties are also provided for false information by a servant; for secreting, destroying, &c., the pocket-register; fraudulent use, receipt or delivery of a pocket-register; issuing or signing a false pocket-register or entry; and knowingly using a false pocket-register. A small fee will be charged for registration and entries in the register. And servants born in Europe, America or Australasia are exempted from the operation of this chapter.

SIMLA;
The 9th August 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 18, 1877. { Register No. 53.

☞ 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 9th August 1877.

[Second publication.]

The following Bill and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Viceroy and Governor General, 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:—

No. 15 OF 1877.

THE MASTER AND SERVANT BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.—PRELIMINARY.

SECTION.

1. Short title.
   Local extent.
   Commencement.
2. Enactments repealed.
   Enactments saved.

CHAPTER II.—OF THE CONTRACT OF SERVICE.

3. Contract of service.
   Wages.
   Master.
   Servant.
   Domestic servant.
4. Application of provisions as to death.
5. Persons competent to enter into contracts of service.
6. Presumption as to wages.
7. Presumption as to term of service.
8. Withdrawal of notice.
9. Termination of contract.
10. Presumption of renewal of contract.

CHAPTER III.—OF THE RIGHTS OF THE MASTER AND THE DUTIES OF THE SERVANT.

11. Master's right to compensation when servant refuses to enter service.
12. Obligations of servant after entry.
13. Time of servant.
14. Master's power to punish.
15. Master's power to discharge.
16. Master's right to sue for compensation for loss of service.
17. Master's right to sue for wages earned by servant from third person.
18. Effect of servant's contributory negligence.

CHAPTER IV.—OF THE RIGHTS OF THE SERVANT AND THE DUTIES OF THE MASTER.

19. Servant's right to compensation from master refusing to receive into service.
20. Obligations of master—
   (*a*) as to retaining servant;
   (*b*) as to payment of wages;
   (*c*) as to indemnifying servant;
   (*d*) as to compensating servant for injury caused by master's neglect;
   (*e*) as to fellow-servants;
   (*f*) as to servants employed in dangerous work.
21. Servants' right to compensation for breach of duty imposed by section 20, clauses (*e*) and (*f*).
22. Negligence of foreman.
23. Compensation for wrongful dismissal.
   Measure of compensation.
24. Termination of service by servant for master's fault.

SECTION.
25. Wages of servant in case of wrongful discharge or termination of contract for master's fault or by death.

CHAPTER V.—OF THE LIABILITY OF ONE FELLOW-SERVANT TO ANOTHER.
26. Liability of one fellow-servant to another.

CHAPTER VI.—OF THE LIABILITY OF A MASTER TO THIRD PERSONS FOR THE ACTS OF HIS SERVANT.
27. When servant may bind master by contract.
28. Liability of master for wrongful acts of servant.
29. Master when not responsible for servant's negligence.
30. Volunteers.

CHAPTER VII.—OF THE LIABILITY OF A SERVANT TO THIRD PERSONS FOR ACTS DONE ON BEHALF OF HIS MASTER.
31. Servant when bound by contract in master's name.
32. Servant when liable to third person for wrongful act.

CHAPTER VIII.—OF FORMS.
33. Use of forms in second schedule.

CHAPTER IX.—OF THE JURISDICTION OF MAGISTRATES IN DISPUTES BETWEEN MASTER AND SERVANT.
34. Failure to perform work on account of which servant has received an advance.
35. Disputes between masters and workmen on Railways, &c.
36. Punishment for breach of contract to work for fixed term on Railway, &c.
Power to order performance of contract.
37. "Master" and "Magistrate."

CHAPTER X.—OF THE REGISTRATION OF DOMESTIC SERVANTS.
38. Power to establish registry-office and appoint Registrar.
39. Masters to cause servants to be registered.
Masters to supply lists to Registrar.
40. Servants to attend personally.
41. Record in general Register.
Issue of pocket-register.
42. Servants quitting employment before pocket-registers delivered.
43. Registration of persons desiring to become domestic servants.
Refusal to register such persons.
44. Registration when to be refused.
45. Master not to hire unregistered servant.
46. Duty of master on hiring registered servant.
47. Master to enter date and cause of termination of service.
Entry of character.
Proviso.
Report of failure to produce pocket-register.
48. Servants to attend Registrar for pocket-register entries to be transferred to general register.
49. Servants to exhibit pocket-registers to Police.
Entry in case of conviction.
50. Registered servants entering service, &c., in places where there is no servants' registration-office.

SECTION.
51. Duplicate pocket-registers.
52. Masters not fulfilling any duty imposed on them by this chapter.
53. Servants not fulfilling any duty imposed on them by this chapter.
54. Servants giving false information.
55. Frauds connected with pocket-register.
Fraudulent secreting or destruction.
Fraudulent use.
Fraudulent delivery or receipt.
Issuing or signing false pocket-register or entry.
Using as true pocket-register one known to be false.
56. Fees.
57. Savings.

FIRST SCHEDULE.—Acts repealed.

SECOND SCHEDULE.—Forms.

A Bill to define and amend the law relating to Master and Servant.

Preamble. Whereas it is expedient to define and amend the law relating to Master and Servant: It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title. **1.** This Act may be called "The Master and Servant Act, 1877;"

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of *March* 1878.

Enactments repealed. **2.** On and from that day the Acts specified in the schedule hereto annexed shall be repealed. But all powers conferred under either of such Acts shall be deemed to have been conferred under this Act. And all references to either of such Acts shall be deemed to be made to this Act.

Enactments saved. Nothing herein contained affects—

(*a*) Act No. I of 1859 (*for the amendment of the law relating to Merchant Seamen*),

(*b*) Act No. VII of 1871, Act No. III of 1876, Bengal Act No. VII of 1873, or any other law regulating the emigration or transport of Native labourers and their contracts of service, or

(*c*) the rules as to compensation contained in the Indian Contract Act, 1872.

CHAPTER II.—OF THE CONTRACT OF SERVICE.

Contract of service. **3.** A contract binding one party to employ and remunerate, and the other to do any work in such manner as the former party directs, is called a contract of service: the remuneration contracted for is called the wages: the party contracting, by himself or his agent, to employ and remunerate is called the master; and the party contracting to do the work is called the servant.

Wages.

Master.

Servant.

Domestic servant. A domestic servant is a servant who contracts to do household work within his master's house or compound.

Application of provisions as to death. **4.** The provisions herein contained as to the death of a master or a servant apply, where the master or servant is a private partnership, to its dissolution, and where the master or servant is a public company, to the completion of its winding-up.

Persons competent to enter into contracts of service. **5.** Every person competent to contract may enter into a contract of service.

Explanation.—For the purposes of this section a minor is competent to contract; but the contract cannot be enforced against him.

Presumption as to wages. **6.** In the absence of express provision as to the amount of wages, the servant is presumed to contract for the remuneration ordinarily paid, at the place and time of entering into the contract, to servants of the same class.

Presumption as to term of service. **7.** In the absence of express provisions as to the term of service and the mode of terminating the contract—

(*a*) a domestic servant is presumed to be hired for a month, and the contract is terminable, on the part of either master or servant, by fifteen days' notice of his intention to put an end to the service, or by payment or tender of fifteen days' wages in advance;

(*b*) a tutor, governess, clerk or other servant not a domestic servant, and not merely mechanical or agricultural or hired by piecework, is presumed to be hired for a year, and the contract is terminable, on the part of either master or servant, by three months' notice of his intention to put an end to the service, or by payment or tender of three months' wages in advance;

(*c*) a merely mechanical or agricultural servant and a person hired by piecework are presumed to be hired for no specific term, and the contract is terminable, at the will of either party, by notice to the other that the service is at an end.

Withdrawal of notice. **8.** Any notice of intention to put an end to service, whether given under the contract or under section 7, may be withdrawn by the party giving it and waived by the parties respectively, and thereupon the service shall continue as if no such notice had been given.

Termination of contract. **9.** A contract of service is terminated—

(*a*) by the death of the master, unless where the contract provides otherwise:

(*b*) by the death of the servant:

(*c*) by mutual consent of the parties:

(*d*) on expiration of the term of service:

(*e*) on expiration of a notice to put an end to service duly given under the contract or under section 7:

(*f*) by payment or tender of wages under section 7:

(*g*) when the master rightfully discharges the servant:

(*h*) when the servant rightfully quits his master's service.

Presumption of renewal of contract. **10.** Where, after the termination of a contract of service, the parties continue the relation of master and servant, they are presumed to have renewed the contract for the same wages and term of service.

CHAPTER III.—OF THE RIGHTS OF THE MASTER AND THE DUTIES OF THE SERVANT.

Master's right to compensation when servant refuses to enter service. **11.** When a servant refuses to enter his master's service, the master is entitled to compensation for the injury caused by the refusal, unless the servant is prevented by some cause over which he has no control from performing his contract.

Obligations of servant after entry. **12.** When a servant has entered his master's service, he is under the following obligations:—

(*a*) he must continue in such service during the whole time that he has contracted for, unless he has rightfully terminated it:

(*b*) he must run all risks incident to the service:

(*c*) he must obey all lawful orders of his master and of any person to whom the master has expressly or impliedly delegated power to give such orders:

(*d*) he must be honest and diligent in his master's business:

(*e*) he must be respectful to his master and, in the case of a domestic servant, the members of his master's family:

(*f*) he must take the same care of his master's property entrusted to him as he would be bound to take if he were a bailee:

(*g*) he must indemnify his master from liability to make compensation for injury caused by any wrongful act or omission of the servant:

(*h*) he must use his best endeavours to protect his master against the wrongful acts or omissions of his fellow-servants, if any:

(*i*) he must, as often as may be reasonable, account for money or goods received from or on account of his master, and must, without demand, deliver to his master as soon as, with reasonable diligence, he can find him, everything that he receives on his master's account:

(*j*) he must not set up the title of any third person to money or goods so received, in opposition to his master's title thereto, except where the master's title accrued fraudulently or wrongfully, or under a voidable contract which has become void.

Time of servant. **13.** The whole time of domestic servants belongs to the master: the time of other servants belongs to the master to such extent as is usual in the business in which they serve.

14. Except for the purpose of maintaining discipline on board a merchant ship, no master shall inflict any punishment on his servant, by way of imprisonment, corporal chastisement, forfeiture of wages or otherwise, whether the servant has or has not attained majority.

Master's power to punish.

Nothing contained in this section renders illegal any contract under which the master may, in the events therein specified, withhold the whole or any part of the servant's wages.

15. A master may discharge his servant, whether hired for a fixed term or not, for any of the following causes:—

Master's power to discharge.

(*a*) wilful disobedience of any lawful order of the master or of any person to whom the master has, expressly or impliedly, delegated power to give such order:

(*b*) habitual negligence in the master's business:

(*c*) conduct likely to injure such business materially:

(*d*) claiming to be a partner with his master:

(*e*) incompetence to discharge the duties for which the servant was hired:

(*f*) permanent disability from illness:

(*g*) imprisonment in a civil or criminal jail:

(*h*) failure to perform any of the obligations imposed upon him by section 12, clauses (*e*), (*f*), (*g*), (*h*), (*i*) and (*j*):

(*i*) gross moral misconduct while in the master's service, or reasonable belief, on the part of the master, in the existence of such misconduct:

(*j*) or if the master discovers that the servant has been guilty of misconduct, before or after the commencement of his service, of such nature, that if the master had known or foreseen it, he would not have employed him.

The existence of any such cause, though not known to the master at the time of the discharge, is sufficient to justify a discharge under this section.

16. A master is entitled to compensation from any one who, knowing that any person is the servant of the master, deprives the master of the services of such person in any of the following ways (namely):—

Master's right to sue for compensation for loss of service.

(*a*) by enticing him away from his master;

(*b*) by harbouring and detaining him;

(*c*) by any act punishable under the Indian Penal Code, chapter XIV or XVI;

(*d*) in the case of a female servant, by seducing her.

Compensation may be recovered under this section, clauses (*a*) and (*b*), not merely for the loss of service, but also for the detriment (if any) resulting therefrom to the master.

Compensation may be recovered under this section, clause (*c*), for the loss of service down to the time when it appears by the evidence that the disability to serve may reasonably be expected to cease.

Compensation may be recovered under this section, clause (*d*), for loss of service and for the expenses (if any) reasonably incurred by the master in nursing and taking care of the servant during her pregnancy and about her delivery.

17. Where wages have been earned by a servant enticed away or harboured by another person knowing him to be a servant, the master may waive his right to sue under section 16, and recover from such other person the amount of the wages so earned.

Master's right to sue or wages earned by servant from third person.

Where a third person employs a servant during any time belonging to his master, whether with or without the master's knowledge and consent, the master may recover the amount of the wages (if any) so earned, unless he has waived his right thereto.

18. A master is not entitled to compensation for injury caused by the wrongful act or omission of a third person, when the master's servant, in the course and within the scope of his employment, might by the exercise of ordinary care have prevented such act or omission.

Effect of servant's contributory negligence.

CHAPTER IV.—OF THE RIGHTS OF THE SERVANT AND THE DUTIES OF THE MASTER.

19. Where a master refuses to receive his servant into his service, the servant is entitled to compensation for the injury caused by such refusal, unless the servant is at the date of the refusal (*a*) incompetent to discharge the duties for which he was hired, or (*b*) permanently disabled by illness.

Servant's right to compensation from master refusing to receive into service.

When the service is to begin on a future day, a suit for such compensation may be brought, at the option of the plaintiff, either immediately on the refusal or on or after such future day.

Illustration.

(*a*) A, in September, engages a servant, B, at Rs. 30 per mensem to accompany him on a tour for three months through India, to commence on the 1st of November. In October, A writes to B saying that he has changed his mind and no longer requires B's services. B thereupon institutes a suit against A for compensation. Afterwards, before the 1st of November, B obtains another engagement at Rs. 30 per mensem to commence on the 1st December. B, being neither incompetent nor disabled, is entitled to a decree for compensation against A.

20. Where a servant has entered his master's service, the master is under the following obligations:

Obligations of master—

(*a*) he must retain the servant during the whole time that he has contracted to do so, unless in case of discharge under section 15:

as to retaining servant;

(*b*) he must pay the wages which he has contracted to pay; provided that, where such wages are payable periodically, and the servant is rightfully discharged, the servant is not entitled to any wages for the portion of time during which he has served since the last preceding periodical payment:

as to payment of wages;

(*c*) he must indemnify the servant from liability for doing any act pursuant to an order of his master which he was bound

as to indemnifying servant;

to obey, or any unlawful act, which the servant, not having reason to believe it to be unlawful, was induced by the conduct of his master to believe to be lawful:

(*d*) he must make compensation to the servant for injury caused to such servant solely by the master's personal neglect or want of skill:

as to compensating servant for injury caused by master's neglect;

(*e*) when the servant has to work along with fellow-servants, the master must use his best endeavours to provide fellow-servants of ordinary skill and care:

as to fellow-servants;

Explanation.—In this clause the expression "fellow-servants" means servants of one master jointly engaged on his behalf in the same operation:

(*f*) where the servant is employed in a work of danger, the master must provide proper materials and apparatus for the work, and must take all other reasonable precautions so as to protect the servant against unnecessary risk.

as to servants employed in dangerous work.

Illustrations.

(*a*) A, a servant, in obedience to the command of his master, B, commits a trespass on the property of C, not having reason to believe that he is doing any injury. C sues A for damages and recovers Rs. 50. A is entitled to recover the Rs. 50 from B.

(*b*) A hires B, a brickmaker, to make bricks with C's trademark thereon. B, having no reason to believe that the trademark was C's, proceeds to make the bricks accordingly. C sues B to restrain him from using the trademark and obtains an injunction with costs which B pays. B may recover the amount so paid from A.

(*c*) A orders his servant B to sell an unsound mare, but not to warrant her soundness. B sells the mare to C with a warranty of soundness. C sues and recovers damages from B for breach of the warranty. B cannot recover these damages from A.

(*d*) A, a master-builder, personally directs his workmen to make a scaffold out of poles which he knows to be unsound. The scaffold gives way, and B, a workman upon it in A's employ, falls and breaks his leg. B may sue A for compensation for this injury.

(*e*) A and B are lessees of a coal-pit. B acts as banksman at the mouth of the pit, and whilst so acting is guilty of negligence whereby C, a pitman in the service of A and B, is injured. Both A and B are liable for the injury.

21. When a servant has sustained particular injury by a breach of any of the obligations imposed on his master by section 20, clauses (*e*) and (*f*), the servant is entitled to compensation for such injury, provided that he could not have avoided the injury by the exercise of ordinary care, and at the time of the injury he had no reason to believe that the breach had been committed.

Servants' right to compensation for breach of duty imposed by section 20, clauses (*e*) and (*f*).

Illustrations.

(*a*) A employs B and C to row, and D to steer, his boat. A has done nothing to ascertain D's competence to act as steersman. Owing to D's want of ordinary skill, the boat collides with a ship in full sail, and B and C are injured. B and C may sue A for compensation.

(*b*) A railway company employs A to drive a locomotive, B to be guard of a train and C to regulate the switches. The company has neglected to ascertain that C was ordinarily careful, and owing to his carelessness the train runs off the line and A is killed and B is maimed. A's legal representative and B may sue the company for compensation.

(*c*) A employs B to work as his servant in a mine. Owing to A's negligence the roof of the mine is left unsafe. B, having no reason to believe in the existence of the danger, begins to work in the mine and a stone falls from the roof and breaks B's leg. B may sue A for compensation.

(*d*) A orders his servant B to carry a bag of rice up a ladder, which A knows, but B has no reason to believe, to be unsafe. The order is within the scope of B's service and B obeys it. The ladder breaks and B falls and fractures his thigh. B may sue A for compensation.

22. Where a servant sues for compensation for injury caused by breach of any obligation imposed by section 20, clauses (*e*) and (*f*), and establishes against any foreman or other agent empowered to direct the work in performing which the injury was received, or to manage any apparatus employed in that work, such proof of negligence in providing fellow servants or taking precautions as would make him liable if he were himself the master, his negligence shall be deemed to be negligence on the part of the master.

Negligence of foreman.

23. When a servant is wrongfully discharged, he is entitled to compensation for the injury caused by the discharge in not being allowed to serve and earn the wages contracted for.

Compensation for wrongful dismissal.

The amount of such compensation is subject to the following rules in cases to which they are applicable:—

Measure of compensation.

(*a*) When the contract is to employ for a specified term, the amount shall be the difference between the wages which the servant would have received under his contract with his master and the wages which he has, or might reasonably have, received under another contract of service:

(*b*) When the contract is terminable by fifteen days' notice, the amount shall be fifteen days' wages.

(*c*) When the contract is terminable by three months' notice, the amount shall be three months' wages.

24. A contract of service, even for a specified term, may be terminated by the servant at any time

Termination of service by servant for master's fault.

(*a*) in case of any wilful or permanent breach of the obligations of his master to him as a servant;

(*b*) if the master commits against the servant any offence punishable under the Indian Penal Code, Chapter XVI, XVII, XXI or XXII;

(*c*) if the servant is prevented by permanent illness or other cause over which he has no control from fulfilling his contract.

Illustrations.

(*a*) A contracts to serve B for a year for the monthly sum of Rs. 100. B refuses to pay the amount due to A for the first month. A may at any time during the year terminate the contract.

(*b*) A, a sailor, contracts with B, the master of C's ship, for a voyage out and home. During the outward voyage B voluntarily and unlawfully causes grievous hurt to A. A may at once terminate the contract.

25. When the servant is wrongfully discharged, or when the contract is terminated under section 24 or by the death of either party, the servant or his legal representative, as the case may be, is entitled to the wages

Wages of servant in case of wrongful discharge or termination of contract for master's fault or by death.

(if any) due for the period during which he has actually served the master.

For the purpose of this section all wages shall (in the absence of an express agreement to the contrary) be deemed to accrue due from day to day.

CHAPTER V.—OF THE LIABILITY OF ONE FELLOW-SERVANT TO ANOTHER.

Liability of one fellow-servant to another.

26. One fellow-servant is liable to make compensation to another for injury caused by neglect or want of skill whilst jointly engaged on behalf of their common master.

CHAPTER VI.—OF THE LIABILITY OF A MASTER TO THIRD PERSONS FOR THE ACTS OF HIS SERVANT.

When servant may bind master by contract

27. A servant may bind his master by contracts entered into in his master's name only when the servant, if he were an agent, could bind his master if he were that agent's principal.

Liability of master for wrongful acts of servant.

28. A master is ordinarily liable to make compensation for injury caused by the wrongful act or omission of his servant, if that act or omission occurred in the course and within the scope of the servant's employment. And the circumstance that the act or omission was not necessary for the proper performance of the servant's duty, or was contrary to his master's orders, does not relieve the master from such liability.

Illustrations.

(*a*) A, the servant of B, a pawnbroker, takes a pawn from C, and when C comes and tenders the money due to B refuses to deliver the pawn. C may sue B for compensation for A's wrongful act.

(*b*) A, the shopman of a jeweller B, sells false jewels for true ones to a customer C. C may sue B for compensation for A's wrongful act.

(*c*) A, the servant of a carter, B, negligently runs his cart over C. C may sue B for the injury caused by A's negligence.

(*d*) A hires horses and a coachman B, from a livery stable-keeper C. B negligently drives A's carriage over D. Unless A ordered or adopted B's act, D cannot sue A for the injury caused by B, for B is the servant of C and not of A.

(*e*) A, the servant of B, without B's knowledge, wrongfully takes B's carriage and horses for his own purposes and drives against C. B is not liable to a suit by C for compensation for A's wrongful act.

(*f*) A, the officer of a Railway Company authorized to give passengers into custody for travelling without tickets for themselves, but not for travelling without tickets for their horses, gives B into custody for travelling without a ticket for his horses. B cannot sue the Company for compensation for A's act, for A acted beyond the scope of his employment.

(*g*) A hires B as his washerman and C as his coachman. B bringing home A's clothes meets C driving A's carriage and, owing to C's want of ordinary care, is knocked down and injured. B may sue A for compensation.

(*h*) A collision occurs between two steamboats, one belonging to X and commanded by his servant, the other belonging to Y and commanded by his servant. The collision is caused by the negligence of both commanders. Any passenger in either steamboat may sue X or Y, or both, for compensation for personal injury suffered in the collision.

Master when not responsible for servant's negligence.

29. Nothing in section 28 shall render a master responsible for injury caused by his servant's default—

(*a*) to any person above the age of ten years who might, by the exercise of ordinary care, have avoided the injury;

(*b*) where the master has been obliged by law to employ the servant;

(*c*) where the master is a public servant and the servant is in his employment as such;

(*d*) where the person injured by the default is a fellow-servant of the wrong-doer jointly engaged on behalf of the master in the same operation, and the master had used his best endeavours to ensure that the wrong-doer was a person of ordinary skill and care.

Volunteers.

30. For the purposes of section 28 and section 29, persons expressly or impliedly permitted by another person to act as his servants without remuneration are servants of such person.

CHAPTER VII.—OF THE LIABILITY OF A SERVANT TO THIRD PERSONS FOR ACTS DONE ON BEHALF OF HIS MASTER.

Servant when bound by contract in master's name.

31. A servant, other than a domestic servant, is bound by contracts entered into in his master's name only where the servant, if he were an agent, would be personally liable.

A domestic servant is bound by such contracts only where he has entered into them without his master's authority.

Servant when liable to third person for wrongful act.

32. Where a servant, acting on behalf of his master, does a wrongful act to a third person, the servant is liable to be sued as a principal by such third person for compensation for the injury caused by such act. But where a servant (other than a public servant) is guilty of negligence only, no such liability arises, except in the case provided for by section 26. Public servants guilty of negligence are liable to be sued by the persons injured thereby for compensation for such injury.

CHAPTER VIII.—OF FORMS.

Use of forms in second schedule.

33. Subject to the power conferred on the High Courts by the Code of Civil Procedure, section 639, and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

CHAPTER IX.—OF THE JURISDICTION OF MAGISTRATES IN DISPUTES BETWEEN MASTER AND SERVANT.

Failure to perform work on account of which servant has received an advance.

34. When a master advances to a mechanical or agricultural servant money on account of any work which he has contracted to execute, and such servant wilfully and without sufficient excuse neglects or refuses to perform his contract, the master may complain to a Magistrate, who shall thereupon issue a summons or warrant, as he thinks fit, for bringing such servant before him.

If the Magistrate after hearing such evidence as the parties may adduce is satisfied of the truth of the complaint, he shall, at the option of the master,

order the servant, on or before such day as the Magistrate directs, either

(*a*) to repay the money advanced or such part thereof as the Magistrate thinks fit, or

(*b*) to execute the work according to the terms of the contract.

If the servant fails to comply with either of such orders, the Magistrate may sentence him to imprisonment for a term which may extend to three months, or, when the order is for repayment of a sum of money, for such term or until such sum is sooner repaid.

Where the Magistrate makes an order under clause (*b*) of this section, he may also, at the master's request, require the servant to enter into a recognizance, with sufficient security for the due performance of the order; and in default of his entering into such recognizance, or furnishing such security to the satisfaction of the Magistrate, may sentence him to imprisonment for a term which may extend to three months.

Disputes between masters and workmen on railways, &c.

35. Any Magistrate may enquire into and decide disputes as to wages, hire of carriage, and price of work between any masters and their servants employed in the construction of any railway, canal or other public work sanctioned by Government: Provided that the amount in dispute does not exceed two hundred rupees.

Cases under this section shall be dealt with, so far as may be, in accordance with the Code of Civil Procedure. But there shall be no appeal against the decision in any such case.

When the Magistrate has heard and decided the case, he shall make an order for the payment, immediately or within such time as he directs, of such sum of money (if any) as appears to him to be justly due, and such sum shall be recoverable as if it were a fine.

Punishment for breach of contract to work for fixed term on railway, &c.

36. Whoever contracts to work for a specified term on any such railway, canal or other public work, or to execute any specific work in connection therewith, and who wilfully and without sufficient excuse neglects or refuses to perform such contract, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty rupees.

Power to order performance of contract.

But the Magistrate may, at the request of the master, instead of punishing the servant so neglecting or refusing, order him by himself or another to execute the work according to the terms of his contract; and if he fail to comply with such order, the Magistrate may sentence him to imprisonment for a term which may extend to two months.

'Master' and 'Magistrate.'

37. In this chapter "master" includes also any person authorized to act on behalf of a master; and "Magistrate" means, in the towns of Calcutta, Madras and Bombay a Presidency Magistrate, and elsewhere a Magistrate empowered by the Local Government to act under this chapter.

CHAPTER X.—OF THE REGISTRATION OF DOMESTIC SERVANTS.

Power to establish registry-office and appoint Registrar.

38. The Local Government may from time to time by notification published in the official Gazette, (*a*) establish for any local area an office for registering domestic servants, to be called a Servants' Registration-office, (*b*) appoint such person as it thinks fit to be Registrar of such office, and to keep a general Register of domestic servants for such local area, and (*c*) make rules consistent with this chapter for the guidance of such Registrar in the discharge of his official duties.

Masters to cause servants to be registered.

39. Within one month of publishing a notification establishing a Servants' Registration office and appointing a Registrar of such office, every master of domestic servants, residing in the local area comprised in such notification shall, in order that such servants may be registered in the general Register, make, sign and send to the Registrar a list showing in the case of each of the said servants his name, the capacity in which he is employed, and the date on which he entered his master's service.

Masters to supply lists to Registrar.

Servants to attend personally.

40. Within three months of such publication, every such servant shall attend personally before the Registrar, and furnish him with such information as regards the servant's age, caste, country, religion, previous service, and other particulars as the Registrar may require.

Record in general Register.

41. The Registrar shall, on such servant so attending, register him by recording in the general Register (*a*) the servant's name, father's name, caste, religion, birth-place, age or supposed age, height and personal marks, (*b*) his master's name, (*c*) the capacity in which he is employed, and (*d*) such statement of his previous service as he desires to have recorded in such Register: Provided that the Registrar shall not make any such record without having reason to believe the statements contained therein.

Issue of pocket-register.

The Registrar shall thereupon issue to the servant a pocket-register in which shall be entered under the Registrar's hand the particulars of the record respecting the servant in the general Register.

Servants quitting employment before pocket-registers delivered.

42. If within three months of the said publication, the contract of service of any servant mentioned in the list furnished by any master to the Registrar under section 39 is determined otherwise than by the death of either party, the master shall make, sign and send the Registrar a memorandum of the date and cause of such termination, unless the servant has previously obtained his pocket-register.

Registration of persons desiring to become domestic servants.

43. The Registrar shall receive applications from any person desirous of becoming a domestic servant. If the Registrar has reason to believe such applicant to be fit to become a domestic servant, he shall register him by recording in the general Register, (*a*) the applicant's name, father's name, caste, religion,

birth-place, age or supposed age, height and personal marks, and (*b*) the names and residences of any persons who certify to his respectability. And the Registrar shall thereupon issue a pocket-register to such applicant, in which shall be entered under the Registrar's hand the particulars of the record respecting the applicant in the general Register.

Refusal to register such persons.

If the Registrar has not reason to believe that the applicant is fit to become a domestic servant, he shall refuse to register him.

Registration when to be refused.

44. The Registrar shall not register any person who 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 any person who has been convicted of any offence under chapters XVI, XVII and XIX of the Indian Penal Code.

Master not to hire unregistered servant.

45. After three months have elapsed from the said publication, no person residing in the said local area shall hire a domestic servant who fails to produce his pocket-register in evidence of his being registered, or whose pocket-register does not record the termination of his last previous contract of service, if any.

Duty of master on hiring registered servant.

46. On hiring a servant registered under this chapter, the master shall require him to produce his pocket-register, and shall enter therein under his hand the date of the contract of service, and the capacity in which such servant is employed.

Master to enter date and cause of termination of service.

47. Whenever the contract of service of any servant registered under this chapter is terminated otherwise than by the death of either party, the late master shall require the late servant to produce his pocket-register, and shall enter therein under his hand a

Entry of character.

memorandum of the date and cause of such termination, and the character of such servant:

Proviso.

Provided that if for any reason the late master is unwilling to give the late servant a character, or to state the cause of such termination, he may refuse to do so; but in that case he shall make, sign and send to the Registrar a memorandum stating his reasons for such refusal:

Report of failure to produce pocket-register.

If the late master be unable to make such entry through the failure of the late servant to produce his pocket-register, he shall report the fact to the Registrar.

Servants to attend Registrar for pocket-register entries to be transferred to general Register.

48. Every servant registered under this chapter shall, within fifteen days from the date of any subsequent entry in his pocket-register, attend personally at the Servants' Registration-office and produce his pocket-register for the purpose of having such entry recorded in the general Register.

Servants to exhibit pocket-registers to Police.

49. Every servant registered under this chapter shall produce his pocket-register when called upon to do so by any officer of Police.

Entry in case of conviction.

Whenever any servant registered under this chapter is convicted of any offence, the convicting Magistrate shall enter in the servant's pocket-register the fact of the conviction, the date of the conviction and the punishment inflicted upon him, and shall communicate such entry to the Registrar of Servants for the local area in which the servant was registered.

Registered servants entering service, &c., in places where there is no servants' registration-office.

50. Every servant registered under this chapter shall, if he subsequently enters into, terminates, or is discharged from a contract of domestic service, in any local area for which a Servants' Registration-office has not been established, attend personally at the nearest Police-station, state to the principal officer at such station the date of such entry, termination or discharge, and produce his pocket-register to such officer; who shall then enter under his hand such date therein, and communicate such entry to the Registrar of Servants for the local area in which such servant was registered.

Duplicate pocket-registers.

51. The Registrar may issue duplicate pocket-registers to replace the originals which have become worn out, or which have been lost or destroyed.

Masters not fulfilling any duty imposed on them by this chapter.

52. Any master or late master guilty of any of the following acts or omissions shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees:—

(*a*) failing to furnish to the Registrar, within one month after a Servants' Registration-office has been established in any local area, the list specified in section 39;

(*b*) failing to send the Registrar the memorandum required by section 42;

(*c*) hiring a domestic servant, three months after this chapter has come into operation, who fails to produce his pocket-register, or whose pocket-register does not record the termination of the last previous contract of service, if any, as provided by section 45;

(*d*) failing to enter in the pocket-register the date and capacity in which a domestic servant is hired, as required by section 46;

(*e*) failing to enter in such pocket-register the date and cause of the termination of a contract of service, or to report his inability to make such entry, as required by section 47;

(*f*) failing, when he refuses to give his domestic servant a character, or to state the cause of the termination of the contract of service, to furnish to the Registrar his reasons for such refusal, as required by section 47.

Servants not fulfilling any duty imposed upon them by this chapter.

53. Any domestic servant or late domestic servant guilty of any of the following omissions shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees:—

(*a*) failing to attend the Registrar and furnish him with the information required by section 40;

(*b*) failing to produce his pocket-register under section 46, 47, 48, or 49;

(*c*) having been registered under this chapter and failing to comply with the requirements of section 50.

Servants giving false information.

54. Any domestic servant or late domestic servant giving false information on any matter on which he is required by this chapter to give information to the Registrar or to any other person, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both.

Frauds connected with pocket-register.

55. Whoever does any of the following acts (namely),

Fraudulent secreting or destruction.

(*a*) fraudulently or dishonestly secretes, destroys, obliterates or renders illegible, or attempts to secrete, destroy, obliterate or render illegible, any pocket-register issued under this chapter, or any entry therein, or

Fraudulent use.

(*b*) fraudulently or dishonestly uses or attempts to use as his own any such pocket-register, or

Fraudulent delivery or receipt.

(*c*) fraudulently or dishonestly delivers to or receives from any other person any such pocket-register,

Issuing or signing false pocket-register or entry.

(*d*) issues or signs any such pocket-register, or any entry therein knowing or having reason to believe that such pocket-register or entry is false in any material point,

Using as true pocket-register one known to be false.

(*e*) corruptly uses or attempts to use any such pocket-register as a true pocket-register, knowing the same to be false in any material point,

shall be punished with imprisonment which may extend to one year, or with fine which may extend to two hundred rupees, or with both.

Fees.

56. The following fees shall be levied under this chapter, and shall be paid by masters or servants or intending servants, as the case may be, in adhesive stamps, to be affixed to the servant's pocket-register, and cancelled by the Registrar:—

Fee payable by master on causing an existing servant to be registered	Four annas.
Fee payable by master on hiring a new servant	Ditto.
Fee payable by intending servant on provisional registration ...	Ditto.
Fee payable by intending servant on registration being confirmed...	Ditto.
Fee payable by servant for registering statement of previous service	Ditto.
Fee payable by servant for a duplicate pocket-register ...	One rupee.

Savings.

57. Nothing in this chapter applies to servants born in Europe, America or Australasia; and, save as provided by sections 49, 50, 53, 54 and 55, nothing in this chapter applies to any person in any local area for which a Servants' Registration-office has not been established.

THE FIRST SCHEDULE.

(*See section* 2).

No. and year.	Title.	Extent of repeal.
XIII of 1859...	An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Labourers in certain cases.	The whole.
IX of 1860 ...	An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other Public Works and their employers.	The whole.

THE SECOND SCHEDULE.

(*See section* 33).

A.—FORMS OF PLAINTS AND WRITTEN STATEMENTS IN SUITS ON CONTRACTS OF SERVICE.

1. *Against a master for refusing to receive into service.*

In the Court of at

Civil Suit No.

A. B. of

against

C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant and serve him for [*one year*] from the day of *A. D.* in the capacity of [*clerk*] to the defendant at the wages of Rs. a month, the defendant on the day of *A. D.* promised the plaintiff to receive him into the said service and to retain him therein for the period and on the terms aforesaid.

2. That all conditions were fulfilled and all things happened, and all times elapsed necessary to entitle the plaintiff to be received and retained by the defendant in his said service in the capacity and on the terms aforesaid.

3. That the defendant did not nor would receive the plaintiff into his said service and retain him therein for the period and on the terms aforesaid.

4. The plaintiff prays judgment for Rs.

2. *By a servant against his master for not receiving him into his service, with statement of damage.*

(*Title.*)

1. That it was agreed by and between the plaintiff and the defendant that the plaintiff should enter into and continue in the service of the defendant, and that the defendant should receive and retain the plaintiff in such service in the capacity of until the expiration of a reasonable

notice to be given by either of them to the other to determine such service at a salary at the rate of Rs. 1,200 a year to be paid by the defendant to the plaintiff in that behalf.

2. That [as in form No. 1, paragraph 2]; whereby the plaintiff lost the profits and emoluments which would have accrued to the plaintiff from being received into and retained in the said service of the defendant as aforesaid, and was also deprived of the opportunity of being retained and employed by any other person, and remained out of service and unemployed for a long time, and lost the benefit of divers expenses which the plaintiff necessarily incurred in and about entering into and preparing to perform the said agreement on the plaintiff's part.

[*Demand of Judgment.*]

3. *For a wrongful dismissal.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant and serve him for a year from the day of 18 . [*or* until the service should be determined as hereinafter mentioned] in the capacity of at the wages of Rs. per month, the defendant promised the plaintiff to retain him in the said service in the capacity and on the terms aforesaid during the said year [*or* until the expiration of three months' notice to be given by the plaintiff or defendant to the other of them to determine the said service].

2. That the plaintiff entered into the said service in the capacity and on the terms aforesaid, and so continued therein for a part of the said year [*or* for a long time], and until the breach of the said promise hereinafter alleged, and was always ready and willing to continue in the said service during the remainder of the said year [*or* until the said service should be determined as aforesaid], whereof the defendant always had notice.

3. That the defendant before the expiration of the said year [*or* without any such notice as aforesaid having been given by either the plaintiff or defendant to the other of them to determine the said service, *or* before the expiration of any such notice as aforesaid], dismissed the plaintiff from the said service and refused to retain the plaintiff therein for the remainder of the said year [*or* until the said service should be so determined as aforesaid], whereby the plaintiff was deprived of the wages and profits which he would have had from being retained in the said service and remained for a long time unemployed.

Written Statement by the Defendant.

(*Title.*)

C. D., the above-named defendant, states as follows:—

Three months before the defendant dismissed the plaintiff from the said service as alleged, the defendant gave to the plaintiff [*or* the plaintiff gave to the defendant] three months' notice of his intention to put an end to the said service.

Written Statement by the Plaintiff.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

After the giving of the said notice and before the expiration thereof and before the defendant dismissed the plaintiff as alleged, the plaintiff and defendant agreed that the said notice should be withdrawn by the plaintiff [*or* defendant] and waived by the plaintiff and the defendant respectively, and that the said service should not determine according to the said notice, but should continue as if no such notice had been given, and thereupon the said notice was then so withdrawn and waived accordingly.

4. *By a domestic servant entitled to a fortnight's warning or a fortnight's wages against his master for a wrongful dismissal.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant in the capacity of a [*bearer, khidmatgár, butler, or as the case may be*], and would serve him in that capacity until the service should be determined as hereinafter mentioned at the wages of Rs. per month, the defendant promised the plaintiff to retain him in the defendant's service in the capacity and at the wages aforesaid until the expiration of fifteen days after notice given by the plaintiff or the defendant to the other of them to put an end to such service, and that in case the defendant should put an end to such service without such notice he should pay to the plaintiff a proportionate part of such wages as aforesaid for fifteen days.

2. That the plaintiff accordingly entered into the said service of the defendant, and has always been ready and willing to continue therein in the capacity and on the terms aforesaid of which the defendant always had notice.

3. That the defendant wrongfully dismissed the plaintiff from the said service without any such notice as aforesaid and without paying the plaintiff such proportionate part of the said wages as aforesaid; whereby the plaintiff was deprived of the wages and advantages which he would otherwise have derived from the said service and has remained for a long time unemployed.

[*Demand of Judgment.*]

5. *By a Servant against the Administrator of his Master.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff was in the service of *E. F.* in his life-time in the capacity of a [*bearer, or as the case may be*] at certain wages and on the terms that such service should continue until either the plaintiff or the said *E. F.* should determine the same by giving the other of them fifteen days' notice of his intention so to do: and thereupon in consideration that the plaintiff would continue in the service of the said *E. F.* in the capacity aforesaid until the death of the said *E. F.*, the said *E. F.* promised the plaintiff to pay him Rs.

2. That the plaintiff accordingly continued in the service of the said *E. F.* in the capacity foresaid until the death of the said *E. F.*, and all conditions were fulfilled and all things happened and all times elapsed necessary to entitle the plaintiff to be paid the said sum of Rs. , yet the same remains due and unpaid to the plaintiff.

3. That the defendant is administrator of the estate of the said *E. F.*

[*Demand of Judgment.*]

B.—PLAINTS IN SUITS FOR WRONGS.

6. *For enticing away the plaintiff's servant.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *G. H.* was and still is the servant of the plaintiff in his business of a , and the defendant well knowing the same wrongfully enticed and procured the said *G. H.* unlawfully and without the consent and against the will of the plaintiff to depart from the said service of the plaintiff; whereby the plaintiff lost the services of the said *G. H.* in his said business.

[*Demand of Judgment.*]

Written Statement by the Defendant.

C. D., the above-named defendant, states as follows:—

That the said *G. H.*, was not the servant of the plaintiff as alleged.

7. *For receiving and harbouring the plaintiff's servant.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *G. H.* was and still is the servant of the plaintiff in his business of a , and unlawfully and without the consent and against the will of the plaintiff departed from the service of the plaintiff.

2. That the defendant well knowing the premises wrongfully and without the consent and against the will of the plaintiff, received, harboured and detained the said *G. H.*, and refused to deliver the said *G. H.* to the plaintiff although requested by the plaintiff so to do; whereby the plaintiff lost the service of the said *G. H.* in his said business.

[*Demand of Judgment.*]

8. *By a servant against his master for employing him to work upon an unsafe scaffolding.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff was employed as a [*bricklayer*] by the defendant to do certain work for the defendant upon a certain scaffolding constructed by the defendant for that purpose.

2. That the said scaffolding was by the negligence and default of the defendant [*or* of the defendant's foreman] constructed unsafely and with defective and improper materials, and was in an unsafe condition, and unfit for the purpose aforesaid, which the defendant [*or* the defendant's foreman] well knew, but which the plaintiff had no reason to believe.

3. That by reason of the premises whilst the plaintiff was so employed as such [*bricklayer*] as aforesaid doing the said work upon the said scaffolding, the said scaffolding broke and gave way, and thereby the plaintiff was thrown to the ground, and his leg was broken, and he was permanently injured and rendered unfit for work, and incurred expense for medical attendance.

[*Demand of Judgment.*]

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend and codify the law governing the relation of Master and Servant. The want of a compact and definite system of law upon this subject has long been felt. This want, it is hoped, will be supplied by the present Bill. The Bill is based mainly upon the English law; but a few deviations from that law have been made; and some provisions have been adopted from the Prussian and New York Codes. The Bill, further, contains provisions for the registration of domestic servants. A desire for legislation in this direction has, at various times, been strongly expressed in many quarters; and it is hoped that the rules in the present Bill upon this subject will be found effective in practice. In substance they have been mainly taken from the Ceylon Ordinance No. 28 of 1871, which is now successfully in operation at Colombo.

The Bill is divided into ten chapters.

Preliminary.

Chapter I contains the usual preliminary matter, and saves the provisions of the Indian Contract Act, 1872, as to compensation. The Acts relating to emigrant labourers and merchant seamen are also saved.

The Contract of Service.

Chapter II deals with the contract of service, which it defines so as to include contracts of service of every description. A domestic servant is also defined as one "who contracts to do household work within his master's house or compound." This definition is made wider in its terms than the definition of the corresponding class of servants in English law, in order to include table servants and others who, in this country, do not usually sleep in their master's house. It declares that every person competent to contract may enter into a contract of service; and supplies an omission of the Indian Contract Act, 1872, section 11, by providing that a minor may enter into such a contract, but that it cannot be enforced against him. It declares that in the absence of express provision on that head, the servant's remuneration shall be presumed to be that ordinarily paid at the time and place of contract to servants of the same class. It provides that in the absence of express provisions as to the term of service and the mode of terminating the contract, it shall be presumed that (*a*) a domestic servant is

hired for a month, and the contract is terminable by fifteen days' notice or payment or tender of fifteen days' wages; (*b*) a servant of a higher class is hired for a year, and the contract is terminable by three months' notice or payment or tender of three months' wages; and (*c*) a merely mechanical or agricultural servant hired by piecework is hired for no specific time, and the contract is terminable by notice at the will of either party. The provision for the termination of the contract in the case of domestic servants is drawn from Bengal Regulation VII of 1819. Section 9 sets forth the events which terminate a contract of service; and section 10 provides for the case in which both parties, after the termination of the contract, continue the relation, by directing that it shall then be presumed that the contract has been renewed for the same wages and term of service.

The rights of the Master and the duties of the Servant.

Chapter III defines the master's rights and the servant's duties. It provides for compensation to the master for the wilful refusal of the servant to enter the service. It declares the duties of the servant after entering the service; amongst these duties attention may be directed to (*d*) that of being respectful to his master and, if a domestic servant, to the members of his master's family; (*e*) the servant's liability as a bailee for his master's property entrusted to him; (*f*) his duty to indemnify his master for liabilities to compensate for injury caused by the servant's wrongful act or omission; (*g*) his obligation to endeavour to protect his master against wrongful acts or omissions of his fellow-servants; (*h*) his liability to account for his master's money or goods received by him, and to deliver up as soon as possible, everything he receives on his master's account; and (*i*) which forbids a servant to set up an adverse title to his master's property, unless the master's title accrued fraudulently or wrongfully or under an avoided contract. These provisions, which are somewhat wider in their scope than the English law, include, it is believed, all the proper duties of a servant. In section 13 there is an express provision, adopted from the New York Civil Code, which declares the master entitled to the whole time of his household servants, and such portion as is customary of the time of his other servants. This provision, it is conceived, is in accordance with the present law. By section 14 the punishment in any shape of servants by their master is forbidden, except for the purpose of maintaining discipline on board merchant vessels. But contracts, under which a master may in certain events withhold part of his servant's wages, will not be rendered illegal. Section 15 describes the cases in which the servant may be discharged. These cases include habitually negligent conduct; conduct or claims likely to be materially injurious to the master; incompetence; permanent disability from illness; imprisonment; breaches of the duties above referred to under section 12; gross moral misconduct or reasonable belief by the master of such misconduct; and the discovery by the master of such misconduct of the servant as would have led the master not to employ him. Section 16 provides for compensation being made to the master by any one knowingly depriving the master of his servant's services, by enticing away, harbouring or detaining the servant; injuring him by acts punishable under chapters XIV and XVI of the Penal Code (relating to offences affecting the public health, &c., and the human body); or, in the case of a female servant, by seducing her. In this latter case the Bill departs, usefully it is thought, from English law by requiring on the part of the seducer knowledge of the master's rights. This section also lays down the usual rules for ascertaining the amount of compensation to be awarded in the cases provided for by this section; and section 17 provides that the master may waive his right to such compensation, and sue for the wages earned by the servant while employed by the wrong-doer. This section also provides for the master's recovering any wages earned by his servant during time belonging to his master, unless the master has waived this right. Section 18 declares that a master is not entitled to be compensated for injuries caused by third persons, when his own servant, acting as such, has by his negligence contributed to cause such injuries.

The rights of the Servant and the duties of the Master.

Chapter IV contains correlative provisions to those of chapter III, and defines the servant's rights and the master's duties. It provides that the master shall compensate a competent servant for refusing to receive him into his service; and gives the servant an option of suing immediately upon the refusal, or of awaiting the time for the commencement of the service. The master's obligations are described in section 20. These include, as well as the obligations to retain and pay the servant, an express duty to indemnify him for liability incurred in obeying his master's lawful orders, or orders which the master's conduct induced the servant to believe lawful. These obligations also include the duty of compensating the servant for injury done by the master; and the last two clauses prescribe that the master must endeavour to provide properly qualified fellow-servants, and must take all reasonable precautions to protect his servant when employed in dangerous work. Section 21 declares the servant entitled to compensation in case of breach of the duties described in the last two clauses, provided that he could not by ordinary care have avoided the injury, and that at the time of the injury he had no reason to believe the breach had been committed. In section 22 a new provision is introduced which seems consonant with justice, which has recently been recommended by the Railway Accidents Commissioners, and which entitles a servant to compensation from the master for injuries caused by a breach of the last two clauses of section 20, when the injury is caused by the negligence of

a foreman having the control of the work, or the management of apparatus employed in the work, in performing which the injury is caused. Section 23 declares a servant wrongfully discharged entitled to compensation for such discharge, and contains rules for such compensation. The servant has, by section 24, a right to determine any contract of service at any time for a wilful or permanent breach by his master of his obligations; or if the master commits against the servant an offence punishable under the chapters of the Penal Code relating to the human body, property, defamation and criminal intimidation, &c.; or if the servant is prevented by permanent illness, or other cause over which he has no control, from fulfilling his contract. It is declared by section 25 that, in the case of a servant wrongfully discharged, or whose contract is terminated under section 24, or by the death of either party, the wages are payable for the period of actual service; and that such wages, in the absence of express agreement to the contrary, shall be deemed to accrue due from day to day. This provision will prevent the hardship which frequently arises, under English law, to a servant who, without fault of his own, has not completed his term of service, and who therefore gets nothing for the time he has served.

Liability of fellow-servants.

Chapter V consists of a single section, which provides that one fellow-servant shall compensate another for injury caused by his neglect or want of skill in the common employ. This is in accordance with the Scotch law, and, it seems, with justice; but the American law and, it would appear, the English law also, is otherwise.

Liability of Master to third persons for his Servant's acts.

Chapter VI renders a master liable upon contracts made by his servant in cases when his servant could bind him if the servant were his agent. It declares (section 28) that a master is ordinarily liable for the wrongful acts or omissions of his servant in the course and within the scope of his employment; although such act or omission was not necessary for the performance of the servant's duty, or was contrary to his master's orders. This section will, it is hoped, remove the uncertainty which has prevailed on this subject. Illustration (*h*) to this section is intended to get rid of the strange doctrine as to the identification of passengers by public conveyances with the persons conducting those conveyances (*Thorogood* v. *Bryan*, 8 C. B. 115). Section 29 saves the master from responsibility in the case of (*a*) contributory negligence of the person injured; (*b*) compulsory employment, as in the case of pilots; (*c*) the servants of public servants; and (*d*) fellow-servants, where the master has performed his duty in properly choosing the wrong-doer. By section 30 volunteers are included in the provisions of sections 28 and 29; and there appears to be no reason that, because they are unpaid, they should be otherwise placed on any different footing from paid servants.

The liability of a Servant to third persons for acts done on behalf of his Master.

Chapter VII provides that a servant, other than a domestic servant, is liable on contracts entered into in his master's name, only when he would be personally liable if he were an agent; and that a domestic servant is liable on contracts unauthorized by his master. This latter provision is inserted because the general rule laid down by the section would impose too great a liability upon servants of this class. The wrongful acts of a servant acting on behalf of his master done to persons not in the service of his master, are provided for by section 32. The servant is liable to the injured person for such acts, but not for negligence, except in the case of public servants.

Forms.

Chapter VIII provides simple forms of plaints and written statements for most of the suits which will lie under the proposed enactment.

Jurisdiction of Magistrates in disputes between Master and Servant.

Chapter IX incorporates the provisions of Act XIII of 1859 (*to provide for the punishment of breaches of contract by Artificers, Workmen, and Labourers in certain cases*) and those of Act IX of 1860 (*to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers*), and gives the Presidency Magistrates and all other Magistrates duly empowered jurisdiction to entertain complaints of the kind specified.

The registration of domestic servants.

Chapter X authorizes the Local Government to establish, by notification, a Servants' Registration Office for any local area, and to provide for the working of such offices. It requires every master of domestic servants, residing in the local area, within one month of the publication of such notification, to send a list of the names of his servants, the capacity in which they are employed, and the date of entering his service. Every such servant must within three months of such publication, attend personally before the Registrar, and furnish him with such information as he may require for the purposes of the Act. The servant is then to be registered, full particulars relating to him and his service being recorded,

The servant is also to be provided with a pocket-register containing the same details. Provision is made in case of the determination, otherwise than by death, of the service of any servant mentioned in the list above mentioned. In such case the master must furnish the Registrar with a memorandum of the date and cause of such termination, unless the servant has previously obtained his pocket-register. The Registrar is required to register any applicant desirous of becoming a domestic servant and whom he has reason to believe fit; he is also required to register full particulars as to his person, and the names and residences of any persons who certify to his respectability. A pocket-register is to be thereupon issued to the applicant. The Registrar must refuse to register the applicant if he has not reason to believe him fit to become a domestic servant. He must also refuse to register certain reputed criminals and bad characters. No person may after three months from the publication of the notification under this chapter, hire a domestic servant who fails to produce his pocket-register, or whose pocket-register does not record the termination of his last previous contract of service, if any. The master hiring a registered servant must require him to produce his pocket-register, and must enter therein the date of his contract of service, and the capacity in which he is employed. Similarly the master must, if the service is terminated otherwise than by death, enter the date and cause of such termination, and the servant's character, in his pocket-register; or he may refuse to give the servant a character, or to state the cause of such termination; but he must in that case sign and send to the Registrar a memorandum of his reasons for so refusing. He must also report to the Registrar if he is unable to make such entry as before mentioned through the failure of the servant to produce his pocket-register. The chapter then provides for the attendance of servants at the Registrar's Office for the purpose of having the subsequent entries in their pocket-registers recorded in the general register; for the production of such pocket-registers to the Police, and for entering any conviction of the servant therein. This last provision is taken from the Prussian Landrecht. The chapter then provides for the registration of the commencement or termination of any service of a registered servant which takes place within any local area for which a Servants' Registration Office has not been established. Such registration is to be made at the nearest Police-station, and information thereof sent to the Registrar of the local area in which the servant was registered. Provision is made for the issue of duplicate pocket-registers in case the originals are lost or worn out. The chapter then provides penalties for breaches of the obligations which it imposes. Penalties are also provided for false information by a servant; for secreting, destroying, &c., the pocket-register; fraudulent use, receipt or delivery of a pocket-register; issuing or signing a false pocket-register or entry; and knowingly using a false pocket-register. A small fee will be charged for registration and entries in the register. And servants born in Europe, America or Australasia are exempted from the operation of this chapter.

SIMLA;
The 9th August 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 25, 1877. { Register No. 53.

☞ 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 9th August 1877.

[Third publication.]

The following Bill and Statement of Objects and Reasons accompanying it, are published for general information, by order of His Excellency the Viceroy and Governor General, 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:—

No. 15 OF 1877.

THE MASTER AND SERVANT BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.—PRELIMINARY.

SECTION.

1. Short title.
   Local extent.
   Commencement.
2. Enactments repealed.
   Enactments saved.

CHAPTER II.—OF THE CONTRACT OF SERVICE.

3. Contract of service.
   Wages.
   Master.
   Servant.
   Domestic servant.
4. Application of provisions as to death.
5. Persons competent to enter into contracts of service.
6. Presumption as to wages.
7. Presumption as to term of service.
8. Withdrawal of notice.
9. Termination of contract.
10. Presumption of renewal of contract.

CHAPTER III.—OF THE RIGHTS OF THE MASTER AND THE DUTIES OF THE SERVANT.

11. Master's right to compensation when servant refuses to enter service.
12. Obligations of servant after entry.
13. Time of servant.
14. Master's power to punish.
15. Master's power to discharge.
16. Master's right to sue for compensation for loss of service.
17. Master's right to sue for wages earned by servant from third person.
18. Effect of servant's contributory negligence.

CHAPTER IV.—OF THE RIGHTS OF THE SERVANT AND THE DUTIES OF THE MASTER.

19. Servant's right to compensation from master refusing to receive into service.
20. Obligations of master—
   (*a*) as to retaining servant;
   (*b*) as to payment of wages;
   (*c*) as to indemnifying servant;
   (*d*) as to compensating servant for injury caused by master's neglect;
   (*e*) as to fellow-servants;
   (*f*) as to servants employed in dangerous work.
21. Servants' right to compensation for breach of duty imposed by section 20, clauses (*e*) and (*f*).
22. Negligence of foreman.
23. Compensation for wrongful dismissal.
   Measure of compensation.
24. Termination of service by servant for master's fault.

SECTION.
25. Wages of servant in case of wrongful discharge or termination of contract for master's fault or by death.

CHAPTER V.—OF THE LIABILITY OF ONE FELLOW-SERVANT TO ANOTHER.
26. Liability of one fellow-servant to another.

CHAPTER VI.—OF THE LIABILITY OF A MASTER TO THIRD PERSONS FOR THE ACTS OF HIS SERVANT.
27. When servant may bind master by contract.
28. Liability of master for wrongful acts of servant.
29. Master when not responsible for servant's negligence.
30. Volunteers.

CHAPTER VII.—OF THE LIABILITY OF A SERVANT TO THIRD PERSONS FOR ACTS DONE ON BEHALF OF HIS MASTER.
31. Servant when bound by contract in master's name.
32. Servant when liable to third person for wrongful act.

CHAPTER VIII.—OF FORMS.
33. Use of forms in second schedule.

CHAPTER IX.—OF THE JURISDICTION OF MAGISTRATES IN DISPUTES BETWEEN MASTER AND SERVANT.
34. Failure to perform work on account of which servant has received an advance.
35. Disputes between masters and workmen on Railways, &c.
36. Punishment for breach of contract to work for fixed term on Railway, &c.
Power to order performance of contract.
37. "Master" and "Magistrate."

CHAPTER X.—OF THE REGISTRATION OF DOMESTIC SERVANTS.
38. Power to establish registry-office and appoint Registrar.
39. Masters to cause servants to be registered.
Masters to supply lists to Registrar.
40. Servants to attend personally.
41. Record in general Register.
Issue of pocket-register.
42. Servants quitting employment before pocket-registers delivered.
43. Registration of persons desiring to become domestic servants.
Refusal to register such persons.
44. Registration when to be refused.
45. Master not to hire unregistered servant.
46. Duty of master on hiring registered servant.
47. Master to enter date and cause of termination of service.
Entry of character.
Proviso.
Report of failure to produce pocket-register.
48. Servants to attend Registrar for pocket-register entries to be transferred to general register.
49. Servants to exhibit pocket-registers to Police.
Entry in case of conviction.
50. Registered servants entering service, &c., in places where there is no servants' registration-office.

SECTION.
51. Duplicate pocket-registers.
52. Masters not fulfilling any duty imposed on them by this chapter.
53. Servants not fulfilling any duty imposed on them by this chapter.
54. Servants giving false information.
55. Frauds connected with pocket-register.
Fraudulent secreting or destruction.
Fraudulent use.
Fraudulent delivery or receipt.
Issuing or signing false pocket-register or entry.
Using as true pocket-register one known to be false.
56. Fees.
57. Savings.

FIRST SCHEDULE.—Acts repealed.

SECOND SCHEDULE.—Forms.

A Bill to define and amend the law relating to Master and Servant.

Preamble. Whereas it is expedient to define and amend the law relating to Master and Servant: It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title. 1. This Act may be called "The Master and Servant Act, 1877;"

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the first day of *March* 1878.

Enactments repealed. 2. On and from that day the Acts specified in the schedule hereto annexed shall be repealed. But all powers conferred under either of such Acts shall be deemed to have been conferred under this Act. And all references to either of such Acts shall be deemed to be made to this Act.

Enactments saved. Nothing herein contained affects—

(*a*) Act No. I of 1859 (*for the amendment of the law relating to Merchant Seamen*),

(*b*) Act No. VII of 1871, Act No. III of 1876, Bengal Act No. VII of 1873, or any other law regulating the emigration or transport of Native labourers and their contracts of service, or

(*c*) the rules as to compensation contained in the Indian Contract Act, 1872.

CHAPTER II.—OF THE CONTRACT OF SERVICE.

Contract of service. 3. A contract binding one party to employ and remunerate, and the other to do any work in such manner as the former party directs, is called a contract of service: the remuneration contracted for is

Wages. called the wages: the party contracting, by himself or his agent, to employ

Master. and remunerate is called the master; and the party

Servant. contracting to do the work is called the servant.

Domestic servant. A domestic servant is a servant who contracts to do household work within his master's house or compound.

Application of provisions as to death. 4. The provisions herein contained as to the death of a master or a servant apply, where the master or servant is a private partnership, to its dissolution, and where the master or servant is a public company, to the completion of its winding-up.

Persons competent to enter into contracts of service. 5. Every person competent to contract may enter into a contract of service.

Explanation.—For the purposes of this section a minor is competent to contract; but the contract cannot be enforced against him.

Presumption as to wages. 6. In the absence of express provision as to the amount of wages, the servant is presumed to contract for the remuneration ordinarily paid, at the place and time of entering into the contract, to servants of the same class.

Presumption as to term of service. 7. In the absence of express provisions as to the term of service and the mode of terminating the contract—

(*a*) a domestic servant is presumed to be hired for a month, and the contract is terminable, on the part of either master or servant, by fifteen days' notice of his intention to put an end to the service, or by payment or tender of fifteen days' wages in advance;

(*b*) a tutor, governess, clerk or other servant not a domestic servant, and not merely mechanical or agricultural or hired by piecework, is presumed to be hired for a year, and the contract is terminable, on the part of either master or servant, by three months' notice of his intention to put an end to the service, or by payment or tender of three months' wages in advance;

(*c*) a merely mechanical or agricultural servant and a person hired by piecework are presumed to be hired for no specific term, and the contract is terminable, at the will of either party, by notice to the other that the service is at an end.

Withdrawal of notice. 8. Any notice of intention to put an end to service, whether given under the contract or under section 7, may be withdrawn by the party giving it and waived by the parties respectively, and thereupon the service shall continue as if no such notice had been given.

Termination of contract. 9. A contract of service is terminated—

(*a*) by the death of the master, unless where the contract provides otherwise:

(*b*) by the death of the servant:

(*c*) by mutual consent of the parties:

(*d*) on expiration of the term of service:

(*e*) on expiration of a notice to put an end to service duly given under the contract or under section 7:

(*f*) by payment or tender of wages under section 7:

(*g*) when the master rightfully discharges the servant:

(*h*) when the servant rightfully quits his master's service.

Presumption of renewal of contract. 10. Where, after the termination of a contract of service, the parties continue the relation of master and servant, they are presumed to have renewed the contract for the same wages and term of service.

CHAPTER III.—OF THE RIGHTS OF THE MASTER AND THE DUTIES OF THE SERVANT.

Master's right to compensation when servant refuses to enter service. 11. When a servant refuses to enter his master's service, the master is entitled to compensation for the injury caused by the refusal, unless the servant is prevented by some cause over which he has no control from performing his contract.

Obligations of servant after entry. 12. When a servant has entered his master's service, he is under the following obligations:—

(*a*) he must continue in such service during the whole time that he has contracted for, unless he has rightfully terminated it:

(*b*) he must run all risks incident to the service:

(*c*) he must obey all lawful orders of his master and of any person to whom the master has expressly or impliedly delegated power to give such orders:

(*d*) he must be honest and diligent in his master's business:

(*e*) he must be respectful to his master and, in the case of a domestic servant, the members of his master's family:

(*f*) he must take the same care of his master's property entrusted to him as he would be bound to take if he were a bailee:

(*g*) he must indemnify his master from liability to make compensation for injury caused by any wrongful act or omission of the servant:

(*h*) he must use his best endeavours to protect his master against the wrongful acts or omissions of his fellow-servants, if any:

(*i*) he must, as often as may be reasonable, account for money or goods received from or on account of his master, and must, without demand, deliver to his master as soon as, with reasonable diligence, he can find him, everything that he receives on his master's account:

(*j*) he must not set up the title of any third person to money or goods so received, in opposition to his master's title thereto, except where the master's title accrued fraudulently or wrongfully, or under a voidable contract which has become void.

Time of servant. 13. The whole time of domestic servants belongs to the master: the time of other servants belongs to the master to such extent as is usual in the business in which they serve.

14. Except for the purpose of maintaining discipline on board a merchant ship, no master shall inflict any punishment on his servant, by way of imprisonment, corporal chastisement, forfeiture of wages or otherwise, whether the servant has or has not attained majority.

Master's power to punish.

Nothing contained in this section renders illegal any contract under which the master may, in the events therein specified, withhold the whole or any part of the servant's wages.

15. A master may discharge his servant, whether hired for a fixed term or not, for any of the following causes:—

Master's power to discharge.

(*a*) wilful disobedience of any lawful order of the master or of any person to whom the master has, expressly or impliedly, delegated power to give such order:

(*b*) habitual negligence in the master's business:

(*c*) conduct likely to injure such business materially:

(*d*) claiming to be a partner with his master:

(*e*) incompetence to discharge the duties for which the servant was hired:

(*f*) permanent disability from illness:

(*g*) imprisonment in a civil or criminal jail:

(*h*) failure to perform any of the obligations imposed upon him by section 12, clauses (*e*), (*f*), (*g*), (*h*), (*i*) and (*j*):

(*i*) gross moral misconduct while in the master's service, or reasonable belief, on the part of the master, in the existence of such misconduct:

(*j*) or if the master discovers that the servant has been guilty of misconduct, before or after the commencement of his service, of such nature, that if the master had known or foreseen it, he would not have employed him.

The existence of any such cause, though not known to the master at the time of the discharge, is sufficient to justify a discharge under this section.

16. A master is entitled to compensation from any one who, knowing that any person is the servant of the master, deprives the master of the services of such person in any of the following ways (namely):—

Master's right to sue for compensation for loss of service.

(*a*) by enticing him away from his master;

(*b*) by harbouring and detaining him;

(*c*) by any act punishable under the Indian Penal Code, chapter XIV or XVI;

(*d*) in the case of a female servant, by seducing her.

Compensation may be recovered under this section, clauses (*a*) and (*b*), not merely for the loss of service, but also for the detriment (if any) resulting therefrom to the master.

Compensation may be recovered under this section, clause (*c*), for the loss of service down to the time when it appears by the evidence that the disability to serve may reasonably be expected to cease.

Compensation may be recovered under this section, clause (*d*), for loss of service and for the expenses (if any) reasonably incurred by the master in nursing and taking care of the servant during her pregnancy and about her delivery.

17. Where wages have been earned by a servant and enticed away or harboured by another person knowing him to be a servant, the master may waive his right to sue under section 16, and recover from such other person the amount of the wages so earned.

Master's right to sue for wages earned by servant from third person.

Where a third person employs a servant during any time belonging to his master, whether with or without the master's knowledge and consent, the master may recover the amount of the wages (if any) so earned, unless he has waived his right thereto.

18. A master is not entitled to compensation for injury caused by the wrongful act or omission of a third person, when the master's servant, in the course and within the scope of his employment, might by the exercise of ordinary care have prevented such act or omission.

Effect of servant's contributory negligence.

CHAPTER IV.—OF THE RIGHTS OF THE SERVANT AND THE DUTIES OF THE MASTER.

19. Where a master refuses to receive his servant into his service, the servant is entitled to compensation for the injury caused by such refusal, unless the servant is at the date of the refusal (*a*) incompetent to discharge the duties for which he was hired, or (*b*) permanently disabled by illness.

Servant's right to compensation from master refusing to receive into service.

When the service is to begin on a future day, a suit for such compensation may be brought, at the option of the plaintiff, either immediately on the refusal or on or after such future day.

Illustration.

(*a*) A, in September, engages a servant, B, at Rs. 30 per mensem to accompany him on a tour for three months through India, to commence on the 1st of November. In October, A writes to B saying that he has changed his mind and no longer requires B's services. B thereupon institutes a suit against A for compensation. Afterwards, before the 1st of November, B obtains another engagement at Rs. 30 per mensem to commence on the 1st December. B, being neither incompetent nor disabled, is entitled to a decree for compensation against A.

20. Where a servant has entered his master's service, the master is under the following obligations:

Obligations of master—

(*a*) he must retain the servant during the whole time that he has contracted to do so, unless in case of discharge under section 15;

as to retaining servant;

(*b*) he must pay the wages which he has contracted to pay; provided that, where such wages are payable periodically, and the servant is rightfully discharged, the servant is not entitled to any wages for the portion of time during which he has served since the last preceding periodical payment:

as to payment of wages;

(*c*) he must indemnify the servant from liability for doing any act pursuant to an order of his master which he was bound

as to indemnifying servant;

to obey, or any unlawful act, which the servant, not having reason to believe it to be unlawful, was induced by the conduct of his master to believe to be lawful:

(*d*) he must make compensation to the servant for injury caused to such servant solely by the master's personal neglect or want of skill:

as to compensating servant for injury caused by master's neglect.;

(*e*) when the servant has to work along with fellow-servants, the master must use his best endeavours to provide fellow-servants of ordinary skill and care:

as to fellow-servants;

Explanation.—In this clause the expression "fellow-servants" means servants of one master jointly engaged on his behalf in the same operation:

(*f*) where the servant is employed in a work of danger, the master must provide proper materials and apparatus for the work, and must take all other reasonable precautions so as to protect the servant against unnecessary risk.

as to servants employed in dangerous work.

Illustrations.

(*a*) A, a servant, in obedience to the command of his master, B, commits a trespass on the property of C, not having reason to believe that he is doing any injury. C sues A for damages and recovers Rs. 50. A is entitled to recover the Rs. 50 from B.

(*b*) A hires B, a brickmaker, to make bricks with C's trademark thereon. B, having no reason to believe that the trademark was C's, proceeds to make the bricks accordingly. C sues B to restrain him from using the trademark and obtains an injunction with costs which B pays. B may recover the amount so paid from A.

(*c*) A orders his servant B to sell an unsound mare, but not to warrant her soundness. B sells the mare to C with a warranty of soundness. C sues and recovers damages from B for breach of the warranty. B cannot recover these damages from A.

(*d*) A, a master-builder, personally directs his workmen to make a scaffold out of poles which he knows to be unsound. The scaffold gives way, and B, a workman upon it in A's employ, falls and breaks his leg. B may sue A for compensation for this injury.

(*e*) A and B are lessees of a coal-pit. B acts as banksman at the mouth of the pit, and whilst so acting is guilty of negligence whereby C, a pitman in the service of A and B, is injured. Both A and B are liable for the injury.

21. When a servant has sustained particular injury by a breach of any of the obligations imposed on his master by section 20, clauses (*e*) and (*f*), the servant is entitled to compensation for such injury, provided that he could not have avoided the injury by the exercise of ordinary care, and at the time of the injury he had no reason to believe that the breach had been committed.

Servants' right to compensation for breach of duty imposed by section 20, clauses (*e*) and (*f*).

Illustrations.

(*a*) A employs B and C to row, and D to steer, his boat. A has done nothing to ascertain D's competence to act as steersman. Owing to D's want of ordinary skill, the boat collides with a ship in full sail, and B and C are injured. B and C may sue A for compensation.

(*b*) A railway company employs A to drive a locomotive, B to be guard of a train and C to regulate the switches. The company has neglected to ascertain that C was ordinarily careful, and owing to his carelessness the train runs off the line and A is killed and B is maimed. A's legal representative and B may sue the company for compensation.

(*c*) A employs B to work as his servant in a mine. Owing to A's negligence the roof of the mine is left unsafe. B, having no reason to believe in the existence of the danger, begins to work in the mine and a stone falls from the roof and breaks B's leg. B may sue A for compensation.

(*d*) A orders his servant B to carry a bag of rice up a ladder, which A knows, but B has no reason to believe, to be unsafe. The order is within the scope of B's service and B obeys it. The ladder breaks and B falls and fractures his thigh. B may sue A for compensation.

22. Where a servant sues for compensation for injury caused by breach of any obligation imposed by section 20, clauses (*e*) and (*f*), and establishes against any foreman or other agent empowered to direct the work in performing which the injury was received, or to manage any apparatus employed in that work, such proof of negligence in providing fellow-servants or taking precautions as would make him liable if he were himself the master, his negligence shall be deemed to be negligence on the part of the master.

Negligence of foreman.

23. When a servant is wrongfully discharged, he is entitled to compensation for the injury caused by the discharge in not being allowed to serve and earn the wages contracted for.

Compensation for wrongful dismissal.

The amount of such compensation is subject to the following rules in cases to which they are applicable:—

Measure of compensation.

(*a*) When the contract is to employ for a specified term, the amount shall be the difference between the wages which the servant would have received under his contract with his master and the wages which he has, or might reasonably have, received under another contract of service:

(*b*) When the contract is terminable by fifteen days' notice, the amount shall be fifteen days' wages.

(*c*) When the contract is terminable by three months' notice, the amount shall be three months' wages.

24. A contract of service, even for a specified term, may be terminated by the servant at any time

Termination of service by servant for master's fault.

(*a*) in case of any wilful or permanent breach of the obligations of his master to him as a servant;

(*b*) if the master commits against the servant any offence punishable under the Indian Penal Code, Chapter XVI, XVII, XXI or XXII;

(*c*) if the servant is prevented by permanent illness or other cause over which he has no control from fulfilling his contract.

Illustrations.

(*a*) A contracts to serve B for a year for the monthly sum of Rs. 100. B refuses to pay the amount due to A for the first month. A may at any time during the year terminate the contract.

(*b*) A, a sailor, contracts with B, the master of C's ship, for a voyage out and home. During the outward voyage B voluntarily and unlawfully causes grievous hurt to A. A may at once terminate the contract.

25. When the servant is wrongfully discharged, or when the contract is terminated under section 24 or by the death of either party, the servant or his legal representative, as the case may be, is entitled to the wages

Wages of servant in case of wrongful discharge or termination of contract for master's fault or by death.

(if any) due for the period during which he has actually served the master.

For the purpose of this section all wages shall (in the absence of an express agreement to the contrary) be deemed to accrue due from day to day.

CHAPTER V.—OF THE LIABILITY OF ONE FELLOW-SERVANT TO ANOTHER.

Liability of one fellow-servant to another.

26. One fellow-servant is liable to make compensation to another for injury caused by neglect or want of skill whilst jointly engaged on behalf of their common master.

CHAPTER VI.—OF THE LIABILITY OF A MASTER TO THIRD PERSONS FOR THE ACTS OF HIS SERVANT.

When servant may bind master by contract.

27. A servant may bind his master by contracts entered into in his master's name only when the servant, if he were an agent, could bind his master if he were that agent's principal.

Liability of master for wrongful acts of servant.

28. A master is ordinarily liable to make compensation for injury caused by the wrongful act or omission of his servant, if that act or omission occurred in the course and within the scope of the servant's employment. And the circumstance that the act or omission was not necessary for the proper performance of the servant's duty, or was contrary to his master's orders, does not relieve the master from such liability.

Illustrations.

(*a*) A, the servant of B, a pawnbroker, takes a pawn from C, and when C comes and tenders the money due to B refuses to deliver the pawn. C may sue B for compensation for A's wrongful act.

(*b*) A, the shopman of a jeweller B, sells false jewels for true ones to a customer C. C may sue B for compensation for A's wrongful act.

(*c*) A, the servant of a carter, B, negligently runs his cart over C. C may sue B for the injury caused by A's negligence.

(*d*) A hires horses and a coachman B, from a livery stable-keeper C. B negligently drives A's carriage over D. Unless A ordered or adopted B's act, D cannot sue A for the injury caused by B, for B is the servant of C and not of A.

(*e*) A, the servant of B, without B's knowledge, wrongfully takes B's carriage and horses for his own purposes and drives against C. B is not liable to a suit by C for compensation for A's wrongful act.

(*f*) A, the officer of a Railway Company authorized to give passengers into custody for travelling without tickets for themselves, but not for travelling without tickets for their horses, gives B into custody for travelling without a ticket for his horses. B cannot sue the Company for compensation for A's act, for A acted beyond the scope of his employment.

(*g*) A hires B as his washerman and C as his coachman. B bringing home A's clothes meets C driving A's carriage and, owing to C's want of ordinary care, is knocked down and injured. B may sue A for compensation.

(*h*) A collision occurs between two steamboats, one belonging to X and commanded by his servant, the other belonging to Y and commanded by his servant. The collision is caused by the negligence of both commanders. Any passenger in either steamboat may sue X or Y, or both, for compensation for personal injury suffered in the collision.

Master when not responsible for servant's negligence.

29. Nothing in section 28 shall render a master responsible for injury caused by his servant's default—

(*a*) to any person above the age of ten years who might, by the exercise of ordinary care, have avoided the injury;

(*b*) where the master has been obliged by law to employ the servant;

(*c*) where the master is a public servant and the servant is in his employment as such;

(*d*) where the person injured by the default is a fellow-servant of the wrong-doer jointly engaged on behalf of the master in the same operation, and the master had used his best endeavours to ensure that the wrong-doer was a person of ordinary skill and care.

Volunteers.

30. For the purposes of section 28 and section 29, persons expressly or impliedly permitted by another person to act as his servants without remuneration are servants of such person.

CHAPTER VII.—OF THE LIABILITY OF A SERVANT TO THIRD PERSONS FOR ACTS DONE ON BEHALF OF HIS MASTER.

Servant when bound by contract in master's name.

31. A servant, other than a domestic servant, is bound by contracts entered into in his master's name only where the servant, if he were an agent, would be personally liable.

A domestic servant is bound by such contracts only where he has entered into them without his master's authority.

Servant when liable to third person for wrongful act.

32. Where a servant, acting on behalf of his master, does a wrongful act to a third person, the servant is liable to be sued as a principal by such third person for compensation for the injury caused by such act. But where a servant (other than a public servant) is guilty of negligence only, no such liability arises, except in the case provided for by section 26. Public servants guilty of negligence are liable to be sued by the persons injured thereby for compensation for such injury.

CHAPTER VIII.—OF FORMS.

Use of forms in second schedule.

33. Subject to the power conferred on the High Courts by the Code of Civil Procedure, section 639, and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

CHAPTER IX.—OF THE JURISDICTION OF MAGISTRATES IN DISPUTES BETWEEN MASTER AND SERVANT.

Failure to perform work on account of which servant has received an advance.

34. When a master advances to a mechanical or agricultural servant money on account of any work which he has contracted to execute, and such servant wilfully and without sufficient excuse neglects or refuses to perform his contract, the master may complain to a Magistrate, who shall thereupon issue a summons or warrant, as he thinks fit, for bringing such servant before him.

If the Magistrate after hearing such evidence as the parties may adduce is satisfied of the truth of the complaint, he shall, at the option of the master,

order the servant, on or before such day as the Magistrate directs, either

(*a*) to repay the money advanced or such part thereof as the Magistrate thinks fit, or

(*b*) to execute the work according to the terms of the contract.

If the servant fails to comply with either of such orders, the Magistrate may sentence him to imprisonment for a term which may extend to three months, or, when the order is for repayment of a sum of money, for such term or until such sum is sooner repaid.

Where the Magistrate makes an order under clause (*b*) of this section, he may also, at the master's request, require the servant to enter into a recognizance, with sufficient security for the due performance of the order; and in default of his entering into such recognizance, or furnishing such security to the satisfaction of the Magistrate, may sentence him to imprisonment for a term which may extend to three months.

Disputes between masters and workmen on railways, &c.

35. Any Magistrate may enquire into and decide disputes as to wages, hire of carriage, and price of work between any masters and their servants employed in the construction of any railway, canal or other public work sanctioned by Government: Provided that the amount in dispute does not exceed two hundred rupees.

Cases under this section shall be dealt with, so far as may be, in accordance with the Code of Civil Procedure. But there shall be no appeal against the decision in any such case.

When the Magistrate has heard and decided the case, he shall make an order for the payment, immediately or within such time as he directs, of such sum of money (if any) as appears to him to be justly due, and such sum shall be recoverable as if it were a fine.

Punishment for breach of contract to work for fixed term on railway, &c.

36. Whoever contracts to work for a specified term on any such railway, canal or other public work, or to execute any specific work in connection therewith, and who wilfully and without sufficient excuse neglects or refuses to perform such contract, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty rupees.

But the Magistrate may, at the request of the master, instead of punishing the servant so neglecting or refusing, order him by himself or another to execute the work according to the terms of his contract; and if he fail to comply with such order, the Magistrate may sentence him to imprisonment for a term which may extend to two months.

'Master' and 'Magistrate.'

37. In this chapter "master" includes also any person authorized to act on behalf of a master; and "Magistrate" means, in the towns of Calcutta, Madras and Bombay a Presidency Magistrate, and elsewhere a Magistrate empowered by the Local Government to act under this chapter.

CHAPTER X.—OF THE REGISTRATION OF DOMESTIC SERVANTS.

Power to establish registry-office and appoint Registrar.

38. The Local Government may from time to time by notification published in the official Gazette, (*a*) establish for any local area an office for registering domestic servants, to be called a Servants' Registration-office, (*b*) appoint such person as it thinks fit to be Registrar of such office, and to keep a general Register of domestic servants for such local area, and (*c*) make rules consistent with this chapter for the guidance of such Registrar in the discharge of his official duties.

Masters to cause servants to be registered.

39. Within one month of publishing a notification establishing a Servants' Registration office and appointing a Registrar of such office, every master of domestic servants, residing in the local area comprised in such notification shall, in order that such servants may be registered in the general Register, make, sign and send to the Registrar a list showing in the case of each of the said servants his name, the capacity in which he is employed, and the date on which he entered his master's service.

Masters to supply lists to Registrar.

Servants to attend personally.

40. Within three months of such publication, every such servant shall attend personally before the Registrar, and furnish him with such information as regards the servant's age, caste, country, religion, previous service, and other particulars as the Registrar may require.

Record in general Register.

41. The Registrar shall, on such servant so attending, register him by recording in the general Register (*a*) the servant's name, father's name, caste, religion, birth-place, age or supposed age, height and personal marks, (*b*) his master's name, (*c*) the capacity in which he is employed, and (*d*) such statement of his previous service as he desires to have recorded in such Register: Provided that the Registrar shall not make any such record without having reason to believe the statements contained therein.

Issue of pocket-register.

The Registrar shall thereupon issue to the servant a pocket-register in which shall be entered under the Registrar's hand the particulars of the record respecting the servant in the general Register.

Servants quitting employment before pocket-registers delivered.

42. If within three months of the said publication, the contract of service of any servant mentioned in the list furnished by any master to the Registrar under section 39 is determined otherwise than by the death of either party, the master shall make, sign and send the Registrar a memorandum of the date and cause of such termination, unless the servant has previously obtained his pocket-register.

Registration of persons desiring to become domestic servants.

43. The Registrar shall receive applications from any person desirous of becoming a domestic servant. If the Registrar has reason to believe such applicant to be fit to become a domestic servant, he shall register him by recording in the general Register, (*a*) the applicant's name, father's name, caste, religion,

birth-place, age or supposed age, height and personal marks, and (*b*) the names and residences of any persons who certify to his respectability. And the Registrar shall thereupon issue a pocket-register to such applicant, in which shall be entered under the Registrar's hand the particulars of the record respecting the applicant in the general Register.

Refusal to register such persons.

If the Registrar has not reason to believe that the applicant is fit to become a domestic servant, he shall refuse to register him.

Registration when to be refused.

44. The Registrar shall not register any person who 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 any person who has been convicted of any offence under chapters XVI, XVII and XIX of the Indian Penal Code.

Master not to hire unregistered servant.

45. After three months have elapsed from the said publication, no person residing in the said local area shall hire a domestic servant who fails to produce his pocket-register in evidence of his being registered, or whose pocket-register does not record the termination of his last previous contract of service, if any.

Duty of master on hiring registered servant.

46. On hiring a servant registered under this chapter, the master shall require him to produce his pocket-register, and shall enter therein under his hand the date of the contract of service, and the capacity in which such servant is employed.

Master to enter date and cause of termination of service.

47. Whenever the contract of service of any servant registered under this chapter is terminated otherwise than by the death of either party, the late master shall require the late servant to produce his pocket-register, and shall enter therein under his hand a memorandum of the date and cause of such termination, and the character of such servant:

Entry of character.

Proviso.

Provided that if for any reason the late master is unwilling to give the late servant a character, or to state the cause of such termination, he may refuse to do so; but in that case he shall make, sign and send to the Registrar a memorandum stating his reasons for such refusal:

Report of failure to produce pocket-register.

If the late master be unable to make such entry through the failure of the late servant to produce his pocket-register, he shall report the fact to the Registrar.

Servants to attend Registrar for pocket-register entries to be transferred to general Register.

48. Every servant registered under this chapter shall, within fifteen days from the date of any subsequent entry in his pocket-register, attend personally at the Servants' Registration-office and produce his pocket-register for the purpose of having such entry recorded in the general Register.

Servants to exhibit pocket-registers to Police.

49. Every servant registered under this chapter shall produce his pocket-register when called upon to do so by any officer of Police.

Entry in case of conviction.

Whenever any servant registered under this chapter is convicted of any offence, the convicting Magistrate shall enter in the servant's pocket-register the fact of the conviction, the date of the conviction and the punishment inflicted upon him, and shall communicate such entry to the Registrar of Servants for the local area in which the servant was registered.

Registered servants entering service, &c., in places where there is no servants' registration-office.

50. Every servant registered under this chapter shall, if he subsequently enters into, terminates, or is discharged from a contract of domestic service, in any local area for which a Servants' Registration-office has not been established, attend personally at the nearest Police-station, state to the principal officer at such station the date of such entry, termination or discharge, and produce his pocket-register to such officer; who shall then enter under his hand such date therein, and communicate such entry to the Registrar of Servants for the local area in which such servant was registered.

Duplicate pocket-registers.

51. The Registrar may issue duplicate pocket-registers to replace the originals which have become worn out, or which have been lost or destroyed.

Masters not fulfilling any duty imposed on them by this chapter.

52. Any master or late master guilty of any of the following acts or omissions shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees:—

(*a*) failing to furnish to the Registrar, within one month after a Servants' Registration-office has been established in any local area, the list specified in section 39;

(*b*) failing to send the Registrar the memorandum required by section 42;

(*c*) hiring a domestic servant, three months after this chapter has come into operation, who fails to produce his pocket-register, or whose pocket-register does not record the termination of the last previous contract of service, if any, as provided by section 45;

(*d*) failing to enter in the pocket-register the date and capacity in which a domestic servant is hired, as required by section 46;

(*e*) failing to enter in such pocket-register the date and cause of the termination of a contract of service, or to report his inability to make such entry, as required by section 47;

(*f*) failing, when he refuses to give his domestic servant a character, or to state the cause of the termination of the contract of service, to furnish to the Registrar his reasons for such refusal, as required by section 47.

Servants not fulfilling any duty imposed upon them by this chapter.

53. Any domestic servant or late domestic servant guilty of any of the following omissions shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees:—

(*a*) failing to attend the Registrar and furnish him with the information required by section 40;

(*b*) failing to produce his pocket-register under section 46, 47, 48, or 49;

(*c*) having been registered under this chapter and failing to comply with the requirements of section 50.

Servants giving false information.

54. Any domestic servant or late domestic servant giving false information on any matter on which he is required by this chapter to give information to the Registrar or to any other person, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both.

Frauds connected with pocket-register.

55. Whoever does any of the following acts (namely),

Fraudulent secreting or destruction.

(*a*) fraudulently or dishonestly secretes, destroys, obliterates or renders illegible, or attempts to secrete, destroy, obliterate or render illegible, any pocket-register issued under this chapter, or any entry therein, or

Fraudulent use.

(*b*) fraudulently or dishonestly uses or attempts to use as his own any such pocket-register, or

Fraudulent delivery or receipt.

(*c*) fraudulently or dishonestly delivers to or receives from any other person any such pocket-register,

Issuing or signing false pocket-register or entry.

(*d*) issues or signs any such pocket-register, or any entry therein knowing or having reason to believe that such pocket-register or entry is false in any material point,

Using as true pocket-register one known to be false.

(*e*) corruptly uses or attempts to use any such pocket-register as a true pocket-register, knowing the same to be false in any material point,

shall be punished with imprisonment which may extend to one year, or with fine which may extend to two hundred rupees, or with both.

Fees.

56. The following fees shall be levied under this chapter, and shall be paid by masters or servants or intending servants, as the case may be, in adhesive stamps, to be affixed to the servant's pocket-register, and cancelled by the Registrar:—

Fee payable by master on causing an existing servant to be registered	Four annas.
Fee payable by master on hiring a new servant	Ditto.
Fee payable by intending servant on provisional registration ...	Ditto.
Fee payable by intending servant on registration being confirmed...	Ditto.
Fee payable by servant for registering statement of previous service	Ditto.
Fee payable by servant for a duplicate pocket-register ...	One rupee.

Savings.

57. Nothing in this chapter applies to servants born in Europe, America or Australasia; and, save as provided by sections 49, 50, 53, 54 and 55, nothing in this chapter applies to any person in any local area for which a Servants' Registration-office has not been established.

THE FIRST SCHEDULE.

(*See section* 2).

No. and year.	Title.	Extent of repeal.
XIII of 1859...	An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Labourers in certain cases.	The whole.
IX of 1860 ...	An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other Public Works and their employers.	The whole.

THE SECOND SCHEDULE.

(*See section* 33).

A.—FORMS OF PLAINTS AND WRITTEN STATEMENTS IN SUITS ON CONTRACTS OF SERVICE.

1. *Against a master for refusing to receive into service.*

In the Court of at
Civil Suit No.
A. B. of
against
C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant and serve him for [*one year*] from the day of *A. D.* in the capacity of [*clerk*] to the defendant at the wages of Rs. a month, the defendant on the day of *A. D.* promised the plaintiff to receive him into the said service and to retain him therein for the period and on the terms aforesaid.

2. That all conditions were fulfilled and all things happened, and all times elapsed necessary to entitle the plaintiff to be received and retained by the defendant in his said service in the capacity and on the terms aforesaid.

3. That the defendant did not nor would receive the plaintiff into his said service and retain him therein for the period and on the terms aforesaid.

4. The plaintiff prays judgment for Rs.

2. *By a servant against his master for not receiving him into his service, with statement of damage.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That it was agreed by and between the plaintiff and the defendant that the plaintiff should enter into and continue in the service of the defendant, and that the defendant should receive and retain the plaintiff in such service in the capacity of until the expiration of a reasonable

notice to be given by either of them to the other to determine such service at a salary at the rate of Rs. 1,200 a year to be paid by the defendant to the plaintiff in that behalf.

2. That [as in form No. 1, paras. 2 and 3]; whereby the plaintiff lost the profits and emoluments which would have accrued to the plaintiff from being received into and retained in the said service of the defendant as aforesaid, and was also deprived of the opportunity of being retained and employed by any other person, and remained out of service and unemployed for a long time, and lost the benefit of divers expenses which the plaintiff necessarily incurred in and about entering into and preparing to perform the said agreement on the plaintiff's part.

[*Demand of Judgment.*]

3. *For a wrongful dismissal.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant and serve him for a year from the day of 18 . [*or* until the service should be determined as hereinafter mentioned] in the capacity of at the wages of Rs. per month, the defendant promised the plaintiff to retain him in the said service in the capacity and on the terms aforesaid during the said year [*or* until the expiration of three months' notice to be given by the plaintiff or defendant to the other of them to determine the said service].

2. That the plaintiff entered into the said service in the capacity and on the terms aforesaid, and so continued therein for a part of the said year [*or* for a long time], and until the breach of the said promise hereinafter alleged, and was always ready and willing to continue in the said service during the remainder of the said year [*or* until the said service should be determined as aforesaid], whereof the defendant always had notice.

3. That the defendant before the expiration of the said year [*or* without any such notice as aforesaid having been given by either the plaintiff or defendant to the other of them to determine the said service, *or* before the expiration of any such notice as aforesaid], dismissed the plaintiff from the said service and refused to retain the plaintiff therein for the remainder of the said year [*or* until the said service should be so determined as aforesaid], whereby the plaintiff was deprived of the wages and profits which he would have had from being retained in the said service and remained for a long time unemployed.

Written Statement by the Defendant.

(*Title.*)

C. D., the above-named defendant, states as follows:—

Three months before the defendant dismissed the plaintiff from the said service as alleged, the defendant gave to the plaintiff [*or* the plaintiff gave to the defendant] three months' notice of his intention to put an end to the said service.

Written Statement by the Plaintiff.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

After the giving of the said notice and before the expiration thereof and before the defendant dismissed the plaintiff as alleged, the plaintiff and defendant agreed that the said notice should be withdrawn by the plaintiff [*or* defendant] and waived by the plaintiff and the defendant respectively, and that the said service should not determine according to the said notice, but should continue as if no such notice had been given, and thereupon the said notice was then so withdrawn and waived accordingly.

4. *By a domestic servant entitled to a fortnight's warning or a fortnight's wages against his master for a wrongful dismissal.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That in consideration that the plaintiff would enter into the service of the defendant in the capacity of a [*bearer, khidmatgár, butler, or as the case may be*], and would serve him in that capacity until the service should be determined as hereinafter mentioned at the wages of Rs. per month, the defendant promised the plaintiff to retain him in the defendant's service in the capacity and at the wages aforesaid until the expiration of fifteen days after notice given by the plaintiff or the defendant to the other of them to put an end to such service, and that in case the defendant should put an end to such service without such notice he should pay to the plaintiff a proportionate part of such wages as aforesaid for fifteen days.

2. That the plaintiff accordingly entered into the said service of the defendant, and has always been ready and willing to continue therein in the capacity and on the terms aforesaid of which the defendant always had notice.

3. That the defendant wrongfully dismissed the plaintiff from the said service without any such notice as aforesaid and without paying the plaintiff such proportionate part of the said wages as aforesaid: whereby the plaintiff was deprived of the wages and advantages which he would otherwise have derived from the said service and has remained for a long time unemployed.

[*Demand of Judgment.*]

5. *By a Servant against the Administrator of his Master.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff was in the service of *E. F.* in his life-time in the capacity of a [*bearer, or as the case may be*] at certain wages and on the terms that such service should continue until either the plaintiff or the said *E. F.* should determine the same by giving the other of them fifteen days' notice of his intention so to do: and thereupon in consideration that the plaintiff would continue in the service of the said *E. F.* in the capacity aforesaid until the death of the said *E. F.*, the said *E. F.* promised the plaintiff to pay him Rs.

2. That the plaintiff accordingly continued in the service of the said *E. F.* in the capacity foresaid until the death of the said *E. F.*, and all conditions were fulfilled and all things happened and all times elapsed necessary to entitle the plaintiff to be paid the said sum of Rs. , yet the same remains due and unpaid to the plaintiff.

3. That the defendant is administrator of the estate of the said *E. F.*

[*Demand of Judgment.*]

B.—PLAINTS IN SUITS FOR WRONGS.

6. *For enticing away the plaintiff's servant.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *G. H.* was and still is the servant of the plaintiff in his business of a , and the defendant well knowing the same wrongfully enticed and procured the said *G. H.* unlawfully and without the consent and against the will of the plaintiff to depart from the said service of the plaintiff; whereby the plaintiff lost the services of the said *G. H.* in his said business.

[*Demand of Judgment.*]

Written Statement by the Defendant.

C. D., the above-named defendant, states as follows:—

That the said *G. H.*, was not the servant of the plaintiff as alleged.

7. *For receiving and harbouring the plaintiff's servant.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *G. H.* was and still is the servant of the plaintiff in his business of a , and unlawfully and without the consent and against the will of the plaintiff departed from the service of the plaintiff.

2. That the defendant well knowing the premises wrongfully and without the consent and against the will of the plaintiff, received, harboured and detained the said *G. H.*, and refused to deliver the said *G. H.* to the plaintiff although requested by the plaintiff so to do; whereby the plaintiff lost the service of the said *G. H.* in his said business.

[*Demand of Judgment.*]

8. *By a servant against his master for employing him to work upon an unsafe scaffolding.*

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff was employed as a [*bricklayer*] by the defendant to do certain work for the defendant upon a certain scaffolding constructed by the defendant for that purpose.

2. That the said scaffolding was by the negligence and default of the defendant [*or* of the defendant's foreman] constructed unsafely and with defective and improper materials, and was in an unsafe condition, and unfit for the purpose aforesaid, which the defendant [*or* the defendant's foreman] well knew, but which the plaintiff had no reason to believe.

3. That by reason of the premises whilst the plaintiff was so employed as such [*bricklayer*] as aforesaid doing the said work upon the said scaffolding, the said scaffolding broke and gave way, and thereby the plaintiff was thrown to the ground, and his leg was broken, and he was permanently injured and rendered unfit for work, and incurred expense for medical attendance.

[*Demand of Judgment.*]

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend and codify the law governing the relation of Master and Servant. The want of a compact and definite system of law upon this subject has long been felt. This want, it is hoped, will be supplied by the present Bill. The Bill is based mainly upon the English law; but a few deviations from that law have been made; and some provisions have been adopted from the Prussian and New York Codes. The Bill, further, contains provisions for the registration of domestic servants. A desire for legislation in this direction has, at various times, been strongly expressed in many quarters; and it is hoped that the rules in the present Bill upon this subject will be found effective in practice. In substance they have been mainly taken from the Ceylon Ordinance No. 28 of 1871, which is now successfully in operation at Colombo.

The Bill is divided into ten chapters.

Preliminary.

Chapter I contains the usual preliminary matter, and saves the provisions of the Indian Contract Act, 1872, as to compensation. The Acts relating to emigrant labourers and merchant seamen are also saved.

The Contract of Service.

Chapter II deals with the contract of service, which it defines so as to include contracts of service of every description. A domestic servant is also defined as one "who contracts to do household work within his master's house or compound." This definition is made wider in its terms than the definition of the corresponding class of servants in English law, in order to include table servants and others who, in this country, do not usually sleep in their master's house. It declares that every person competent to contract may enter into a contract of service; and supplies an omission of the Indian Contract Act, 1872, section 11, by providing that a minor may enter into such a contract, but that it cannot be enforced against him. It declares that in the absence of express provision on that head, the servant's remuneration shall be presumed to be that ordinarily paid at the time and place of contract to servants of the same class. It provides that in the absence of express provisions as to the term of service and the mode of terminating the contract, it shall be presumed that (*a*) a domestic servant is

hired for a month, and the contract is terminable by fifteen days' notice or payment or tender of fifteen days' wages; (*b*) a servant of a higher class is hired for a year, and the contract is terminable by three months' notice or payment or tender of three months' wages; and (*c*) a merely mechanical or agricultural servant hired by piecework is hired for no specific time, and the contract is terminable by notice at the will of either party. The provision for the termination of the contract in the case of domestic servants is drawn from Bengal Regulation VII of 1819. Section 9 sets forth the events which terminate a contract of service; and section 10 provides for the case in which both parties, after the termination of the contract, continue the relation, by directing that it shall then be presumed that the contract has been renewed for the same wages and term of service.

The rights of the Master and the duties of the Servant.

Chapter III defines the master's rights and the servant's duties. It provides for compensation to the master for the wilful refusal of the servant to enter the service. It declares the duties of the servant after entering the service; amongst these duties attention may be directed to (*d*) that of being respectful to his master and, if a domestic servant, to the members of his master's family; (*e*) the servant's liability as a bailee for his master's property entrusted to him; (*f*) his duty to indemnify his master for liabilities to compensate for injury caused by the servant's wrongful act or omission; (*g*) his obligation to endeavour to protect his master against wrongful acts or omissions of his fellow-servants; (*h*) his liability to account for his master's money or goods received by him, and to deliver up as soon as possible, everything he receives on his master's account; and (*i*) which forbids a servant to set up an adverse title to his master's property, unless the master's title accrued fraudulently or wrongfully or under an avoided contract. These provisions, which are somewhat wider in their scope than the English law, include, it is believed, all the proper duties of a servant. In section 13 there is an express provision, adopted from the New York Civil Code, which declares the master entitled to the whole time of his household servants, and such portion as is customary of the time of his other servants. This provision, it is conceived, is in accordance with the present law. By section 14 the punishment in any shape of servants by their master is forbidden, except for the purpose of maintaining discipline on board merchant vessels. But contracts, under which a master may in certain events withhold part of his servant's wages, will not be rendered illegal. Section 15 describes the cases in which the servant may be discharged. These cases include habitually negligent conduct; conduct or claims likely to be materially injurious to the master; incompetence; permanent disability from illness; imprisonment; breaches of the duties above referred to under section 13; gross moral misconduct or reasonable belief by the master of such misconduct; and the discovery by the master of such misconduct of the servant as would have led the master not to employ him. Section 16 provides for compensation being made to the master by any one knowingly depriving the master of his servant's services, by enticing away, harbouring or detaining the servant; injuring him by acts punishable under chapters XIV and XVI of the Penal Code (relating to offences affecting the public health, &c., and the human body); or, in the case of a female servant, by seducing her. In this latter case the Bill departs, usefully it is thought, from English law by requiring on the part of the seducer knowledge of the master's rights. This section also lays down the usual rules for ascertaining the amount of compensation to be awarded in the cases provided for by this section; and section 17 provides that the master may waive his right to such compensation, and sue for the wages earned by the servant while employed by the wrong-doer. This section also provides for the master's recovering any wages earned by his servant during time belonging to his master, unless the master has waived this right. Section 18 declares that a master is not entitled to be compensated for injuries caused by third persons, when his own servant, acting as such, has by his negligence contributed to cause such injuries.

The rights of the Servant and the duties of the Master.

Chapter IV contains correlative provisions to those of chapter III, and defines the servant's rights and the master's duties. It provides that the master shall compensate a competent servant for refusing to receive him into his service; and gives the servant an option of suing immediately upon the refusal, or of awaiting the time for the commencement of the service. The master's obligations are described in section 20. These include, as well as the obligations to retain and pay the servant, an express duty to indemnify him for liability incurred in obeying his master's lawful orders, or orders which the master's conduct induced the servant to believe lawful. These obligations also include the duty of compensating the servant for injury done by the master; and the last two clauses prescribe that the master must endeavour to provide properly qualified fellow-servants, and must take all reasonable precautions to protect his servant when employed in dangerous work. Section 21 declares the servant entitled to compensation in case of breach of the duties described in the last two clauses, provided that he could not by ordinary care have avoided the injury, and that at the time of the injury he had no reason to believe the breach had been committed. In section 22 a new provision is introduced which seems consonant with justice, which has recently been recommended by the Railway Accidents Commissioners, and which entitles a servant to compensation from the master for injuries caused by a breach of the last two clauses of section 20, when the injury is caused by the negligence of

a foreman having the control of the work, or the management of apparatus employed in the work, in performing which the injury is caused. Section 23 declares a servant wrongfully discharged entitled to compensation for such discharge, and contains rules for such compensation. The servant has, by section 24, a right to determine any contract of service at any time for a wilful or permanent breach by his master of his obligations; or if the master commits against the servant an offence punishable under the chapters of the Penal Code relating to the human body, property, defamation and criminal intimidation, &c.; or if the servant is prevented by permanent illness, or other cause over which he has no control, from fulfilling his contract. It is declared by section 25 that, in the case of a servant wrongfully discharged, or whose contract is terminated under section 24, or by the death of either party, the wages are payable for the period of actual service; and that such wages, in the absence of express agreement to the contrary, shall be deemed to accrue due from day to day. This provision will prevent the hardship which frequently arises, under English law, to a servant who, without fault of his own, has not completed his term of service, and who therefore gets nothing for the time he has served.

Liability of fellow-servants.

Chapter V consists of a single section, which provides that one fellow-servant shall compensate another for injury caused by his neglect or want of skill in the common employ. This is in accordance with the Scotch law, and, it seems, with justice; but the American law and, it would appear, the English law also, is otherwise.

Liability of Master to third persons for his Servant's acts.

Chapter VI renders a master liable upon contracts made by his servant in cases when his servant could bind him if the servant were his agent. It declares (section 28) that a master is ordinarily liable for the wrongful acts or omissions of his servant in the course and within the scope of his employment; although such act or omission was not necessary for the performance of the servant's duty, or was contrary to his master's orders. This section will, it is hoped, remove the uncertainty which has prevailed on this subject. Illustration (*h*) to this section is intended to get rid of the strange doctrine as to the identification of passengers by public conveyances with the persons conducting those conveyances (*Thorogood* v. *Bryan*, 8 C. B. 115). Section 29 saves the master from responsibility in the case of (*a*) contributory negligence of the person injured; (*b*) compulsory employment, as in the case of pilots; (*c*) the servants of public servants; and (*d*) fellow-servants, where the master has performed his duty in properly choosing the wrong-doer. By section 30 volunteers are included in the provisions of sections 28 and 29; and there appears to be no reason that, because they are unpaid, they should be otherwise placed on any different footing from paid servants.

The liability of a Servant to third persons for acts done on behalf of his Master.

Chapter VII provides that a servant, other than a domestic servant, is liable on contracts entered into in his master's name, only when he would be personally liable if he were an agent; and that a domestic servant is liable on contracts unauthorized by his master. This latter provision is inserted because the general rule laid down by the section would impose too great a liability upon servants of this class. The wrongful acts of a servant acting on behalf of his master done to persons not in the service of his master, are provided for by section 32. The servant is liable to the injured person for such acts, but not for negligence, except in the case of public servants.

Forms.

Chapter VIII provides simple forms of plaints and written statements for most of the suits which will lie under the proposed enactment.

Jurisdiction of Magistrates in disputes between Master and Servant.

Chapter IX incorporates the provisions of Act XIII of 1859 (*to provide for the punishment of breaches of contract by Artificers, Workmen, and Labourers in certain cases*) and those of Act IX of 1860 (*to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers*), and gives the Presidency Magistrates and all other Magistrates duly empowered jurisdiction to entertain complaints of the kind specified.

The registration of domestic servants.

Chapter X authorizes the Local Government to establish, by notification, a Servants' Registration Office for any local area, and to provide for the working of such offices. It requires every master of domestic servants, residing in the local area, within one month of the publication of such notification, to send a list of the names of his servants, the capacity in which they are employed, and the date of entering his service. Every such servant must within three months of such publication, attend personally before the Registrar, and furnish him with such information as he may require for the purposes of the Act. The servant is then to be registered, full particulars relating to him and his service being recorded.

The servant is also to be provided with a pocket-register containing the same details. Provision is made in case of the determination, otherwise than by death, of the service of any servant mentioned in the list above mentioned. In such case the master must furnish the Registrar with a memorandum of the date and cause of such termination, unless the servant has previously obtained his pocket-register. The Registrar is required to register any applicant desirous of becoming a domestic servant and whom he has reason to believe fit; he is also required to register full particulars as to his person, and the names and residences of any persons who certify to his respectability. A pocket-register is to be thereupon issued to the applicant. The Registrar must refuse to register the applicant if he has not reason to believe him fit to become a domestic servant. He must also refuse to register certain reputed criminals and bad characters. No person may after three months from the publication of the notification under this chapter, hire a domestic servant who fails to produce his pocket-register, or whose pocket-register does not record the termination of his last previous contract of service, if any. The master hiring a registered servant must require him to produce his pocket-register, and must enter therein the date of his contract of service, and the capacity in which he is employed. Similarly the master must, if the service is terminated otherwise than by death, enter the date and cause of such termination, and the servant's character, in his pocket-register; or he may refuse to give the servant a character, or to state the cause of such termination; but he must in that case sign and send to the Registrar a memorandum of his reasons for so refusing. He must also report to the Registrar if he is unable to make such entry as before mentioned through the failure of the servant to produce his pocket-register. The chapter then provides for the attendance of servants at the Registrar's Office for the purpose of having the subsequent entries in their pocket-registers recorded in the general register; for the production of such pocket-registers to the Police, and for entering any conviction of the servant therein. This last provision is taken from the Prussian Landrecht. The chapter then provides for the registration of the commencement or termination of any service of a registered servant which takes place within any local area for which a Servants' Registration Office has not been established. Such registration is to be made at the nearest Police-station, and information thereof sent to the Registrar of the local area in which the servant was registered. Provision is made for the issue of duplicate pocket-registers in case the originals are lost or worn out. The chapter then provides penalties for breaches of the obligations which it imposes. Penalties are also provided for false information by a servant; for secreting, destroying, &c., the pocket-register; fraudulent use, receipt or delivery of a pocket-register; issuing or signing a false pocket-register or entry; and knowingly using a false pocket-register. A small fee will be charged for registration and entries in the register. And servants born in Europe, America or Australasia are exempted from the operation of this chapter.

SIMLA;
The 9th August 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 13, 1877. Register No. 53.

☞ 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 10th October 1877:—

No. 16 OF 1877.

THE STAMP BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Extent of Act.
   Commencement of Act.
2. Repeal of enactments.
3. Interpretation-clause.
4. Rule of construction.

CHAPTER II.

STAMP-DUTIES AND COURT-FEES CHARGEABLE UNDER THIS ACT.

5. All duties to be paid according to the regulations of this Act.
6. Schedules to be read as part of Act.
7. Use of appropriated stamps.

CHAPTER III.

STAMP-DUTIES ON INSTRUMENTS.

SECTIONS.

8. Scheduled duties chargeable.
9. Instruments executed in British India.
   Instruments executed out of British India.
10. How instruments are to be written and stamped.
11. Stock and marketable securities to be valued.
12. Effect of statement of value.
13. Denoting stamp.
14. Use of adhesive stamps.
15. Duties by whom payable.
16. Bills of exchange chargeable with duty.
17. Stamping bills drawn out of British India.
18. Power of banker in case of bills, notes and cheques received by him unstamped.
    Saving of liability for issuing bill, &c., unstamped.
19. Foreign bill unstamped or with stamp uncancelled.
20. Instruments reserving interest.
21. Consideration expressed in certain foreign currencies.
22. Valuation of money in other foreign or colonial currency for levy of duty.
23. Optional stamps where value of subject-matter is indeterminate.
24. Amount on which duty leviable in case of bond, &c., for payment of annuity.
25. Amount on which duty leviable where consideration is an annuity.

SECTIONS.
26. Amount on which duty leviable in case of lease where no term is expressed.
27. Several instruments used in single transaction.
28. Instruments coming within two or more of the definitions in section 3.
Instruments conveying several subject-matters.
29. Consideration to be stated.
Mortgage-money to be deemed purchase-money.

CHAPTER IV.

UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

30. Instruments produced in Court to be examined.
31. Instruments not duly stamped inadmissible in evidence.
32. Admission in criminal cases of documents for which proper fee has not been paid.
33. Procedure as to instruments impounded under section 30, and not received in evidence.
34. Impounding unstamped instruments in public office.
35. Powers of Collector as to unstamped or insufficiently stamped instruments other than bills and notes.
Certificate.
36. Endorsement of instruments on which duty has been paid under section 31 or 35.
37. Right of person paying duty under section 31 or 35 when he is not bound to provide stamp.
38. Instruments chargeable with one anna duty.
39. Non-liability for loss of instruments sent under section 18, 33 or 34.
40. Procedure where receipts are required.
41. Stamping unstamped receipts.
42. Cancellation of adhesive stamps.

CHAPTER V.

ADJUDICATION OF DOUBTS AS TO STAMPS.

43. Adjudication of doubt as to proper stamp.
44. Payments under section 43 how made.

CHAPTER VI.

REFERENCE AND REVISION.

45. Reference to High Court.
46. Procedure where Collector entertains doubt as to duty chargeable.
47. Procedure where Court entertains doubt as to duty on instrument.
48. Revision of certificates and orders.

CHAPTER VII.

FEES IN THE CHARTERED HIGH COURTS.

49. Levy of fees in High Courts on their original sides.
SECTIONS.
50. Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction.
In their appellate jurisdiction.
As Courts of reference and revision.
51. Procedure in case of difference as to necessity or amount of fee.
52. Saving of fees to certain officers of High Court.

CHAPTER VIII.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

53. Fees on documents filed, &c., in Mufassal Courts or in public offices.
54. Power to stamp document inadvertently received.
55. Amended document.
56. Computation of fees payable in certain suits.
i—for money:
ii—for maintenance and annuities:
iii—for other moveable property having a market-value:
iv—for moveable property of no market-value:
to enforce a right to share in joint family property:
for a declaratory decree:
for an injunction:
for easements:
for accounts:
v—for possession of lands, houses and gardens:
Proviso as to Bombay Presidency:
for houses and gardens:
vi—to enforce a right of pre-emption:
vii—for interest of assignee of land-revenue:
viii—to set aside an attachment:
ix—to redeem:
to foreclose:
x—for specific performance:
xi—between landlord and tenant.
57. Fees in certain suits by Government ryots in Madras.
58. Fee on memorandum of appeal against order relating to compensation.
59. Power to ascertain nett profits or market-value.
60. Procedure where nett profits or market-value wrongly estimated.
61. Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.
62. Decision of questions as to valuation.
63. Additional fee where respondent takes objection to unappealed part of decree.
64. Multifarious suits.
65. Cancellation of stamps.
66. Written examinations of complainants.
67. Repayment of fees paid on applications to criminal Courts.

CHAPTER IX.

PROBATES, LETTERS OF ADMINISTRATION, AND CERTIFICATES OF ADMINISTRATION.

SECTIONS.
68. Relief where too high a court-fee has been paid on probate or letters of administration.
69. Relief where debts due from a deceased person have been paid out of his estate.
70. Relief in case of several grants.
71. Probates declared valid as to trust property though not covered by court-fee.
72. Provision for case where too low a court-fee has been paid on probates, &c.
73. Administrator to give proper security before letters stamped under section 79.
74. Executors, &c., not paying full court-fee on probates, &c., within six months after discovery of underpayment.
75. Collector to deliver or pay stamp or amount directed by Court.
76. This chapter applied to certificates under Acts XL of 1858, XXVII of 1860 and XX of 1864.

CHAPTER X.

REFUNDS.

77. Allowance for spoiled stamps.
78. Allowance for misused stamps.
79. Allowance how to be made.
80. Repurchase of stamps not wanted.
81. Refund of fee paid on memorandum of appeal.
82. Refund of fee on application for review of judgment.
83. Refund where Court reverses or modifies its former decision on ground of mistake.
84. Refund where plaint rejected for merely technical defect.
85. Remission of additional duty levied under section 31.

CHAPTER XI.

CRIMINAL PENALTIES.

86. Penalty for executing instrument on paper not duly stamped.
87. Penalty for presenting, &c., unstamped foreign bills or notes.
88. Refusal to give receipt.
89. Penalty for failure to cancel such stamps.
90. Penalty for not drawing full number of bills or marine policies purporting to be in sets.
91. Penalty for not stating consideration.
92. Penalty on attorneys, &c., not inserting true consideration.
93. Fraudulent removal, sale, &c., of adhesive stamps.
94. Penalty for stamp-vendor disobeying rules.
95. Reward to informers.
96. Institution and conduct of prosecution.
97. Magistrates having jurisdiction.

CHAPTER XII.

MISCELLANEOUS.

SECTIONS.
98. Employment of single impressed stamp.
99. Employment of several stamped papers.
100. Power to reduce or remit rates of stamp-duty.
101. Power to make subsidiary rules.
Approval and publication of rules.

SCHEDULES.

I. AD VALOREM STAMP-DUTIES.
II. FIXED STAMP-DUTIES.
III. EXEMPTIONS FROM STAMP-DUTY.
IV. AD VALOREM COURT-FEES.
V. FIXED FEES.
VI. EXEMPTIONS FROM COURT-FEES.
VII. ACTS REPEALED.

A Bill to consolidate and amend the law relating to Stamps and Court-fees.

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Stamp Act, 1878."

Extent of Act. It extends to the whole of British India;

Commencement of Act. And it shall come into force on the *first* day of July 1878.

Repeal of enactments. 2. On and after that day, the Acts specified in the seventh schedule shall be repealed to the extent specified in the third column of the same schedule. But all rules framed 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. And all exemptions granted under any such Act and then in force shall be deemed to have been granted under this Act. And all references made to the General Stamp Act, 1869, or to the Court-Fees Act, 1870, shall be deemed to be made to this Act.

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

"Affidavit." (1.) "Affidavit" means a declaration in writing, on oath or affirmation, made before a person authorized by law to administer an oath:

"Award." (2.) "Award" means any decision in writing by an arbitrator or umpire:

"Banker." (3.) "Banker" includes any person acting as a banker:

(4.) "Bill of exchange" includes a hundí and every other instrument (except a cheque) whereby a person is ordered to pay to another a specified sum of money:

"Bill of exchange."

(5.) "Bill of lading" means any instrument signed by the owner of a ship or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver them at a place and to a person therein mentioned or indicated. It includes a cargo receipt:

"Bill of lading."

(6.) "Bond" means any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be:

"Bond."

(7.) "Bottomry-bond" means any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to prosecute her voyage:

"Bottomry-bond."

(8.) "Charter-party" means any instrument (except an agreement for the hire of a tug-steamer) whereby a ship or some principal part thereof is let for the specified purposes of the charterer:

"Charter-party."

(9.) "Cheque" means any instrument whereby a bank or banker is ordered to pay on demand a specified sum of money:

"Cheque."

(10.) "Chief Controlling Revenue Authority" means in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue: in the Presidency of Bombay, a Revenue Commissioner: in the Panjáb, the Financial Commissioner; and elsewhere the Local Government.

"Chief Controlling Revenue Authority."

(11.) "Collector" means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras or Bombay, and without those limits, the Collector of a District, and includes a Deputy Commissioner or any officer having jurisdiction equivalent to that of a Collector of a District:

"Collector."

(12.) "Composition-deed" means any instrument executed by a debtor, whereby the debtor conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors:

"Composition-deed."

(13.) "Conveyance" means any instrument (except a transfer of a share in a Company or Association, a mortgage-deed, a settlement, a lease, an instrument of reconveyance of mortgaged property, a composition-deed, an instrument of gift, or an instrument of exchange or partition-deed, where no money is paid for equality of exchange or partition), by which property is conveyed *inter vivos*. It includes a certificate under the Code of Civil Procedure, section 316, and a sale-certificate granted by a Collector:

"Conveyance."

(14.) "Counterpart" means the duplicate of a conveyance, settlement, mortgage-deed or lease, such duplicate not being executed by the grantor, settlor, mortgagor or lessor, but by some other party to the instrument: it includes a *kabúliyat* in cases where a lease has been granted:

"Counterpart."

(15.) "Delivery-order" means any document or writing entitling, or intended to entitle, any person therein named, or his assigns, or the holder thereof, to the delivery of any goods, wares or merchandise of the value of twenty rupees or upwards, lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such document or writing being signed by or on behalf of the owner of such goods, wares or merchandise, upon the sale or transfer of the property therein:

"Delivery-order."

(16.) "Dock-warrant" means any instrument evidencing the title of any person therein named or his assign, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the company or person in whose custody such goods may be:

"Dock-warrant."

(17.) "Instrument duly stamped" means an instrument chargeable with stamp-duty or a court-fee according to the law in force in British India at the date of its execution and stamped in accordance with such law:

"Instrument duly stamped."

(18.) "Impressed" includes printed and lithographed:

"Impressed."

(19.) "Instrument" includes every written document:

"Instrument."

(20.) "Instrument of apprenticeship" includes every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment, except articles of clerkship to attornies:

"Instrument of apprenticeship."

(21.) "Instrument of divorce" includes every document by which any person purports to effect the dissolution of his marriage.

"Instrument of divorce."

(22.) "Interest" means simple interest:

"Interest."

(23.) "Lease" means any instrument (not being a counterpart) by which one person lets or agrees to let, or takes or agrees to take, property to or from another:

"Lease."

(24.) "Letter of credit" means any instrument by which one person requests another to give credit to the person in whose favour it is drawn:

"Letter of credit."

(25.) "Letter of license" includes every agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion:

"Letter of license."

(26.) "Mortgage-deed" means any instrument evidencing a pledge of immoveable property for securing the payment of money:

"Mortgage-deed."

(27.) "Negotiable instrument" includes bills of exchange, promissory notes and cheques:

"Negotiable instrument."

(28.) "Notarial act" means any instrument, endorsement, note or entry made or signed by a Notary Public in the execution of the duties of his office, and includes every like instrument, endorsement, note or entry made or signed by a consul, attorney, judge, magistrate, or other person acting as a Notary Public:

"Notarial act."

(29.) "Paper" includes vellum, parchment or any other material on which an instrument may be written:

"Paper."

(30.) "Partition-deed" means any instrument whereby persons interested in property, jointly or in common, or as co-parceners, or as members of an undivided family, divide or agree to divide such property in severalty, and includes a *batwárá*:

"Partition-deed."

(31.) "Policy of insurance" means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event: it includes a policy on life:

"Policy of insurance."

(32.) "Power-of-attorney" means any instrument (except a proxy) empowering a person to act in the stead of the person executing it:

"Power-of-attorney."

(33.) "Promissory note" means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight:

"Promissory note."

(34.) "Property" means property being in British India at the time of executing the instrument in which it is comprised:

"Property."

(35.) "Protest" means a declaration in writing made by a Notary Public, or other person authorized to act as such, attesting the dishonour of a bill of exchange or promissory note:

"Protest."

(36.) "Protest of the Master of a ship" means a declaration of the particulars of her voyage, drawn up by him with a view to the adjustment of losses, or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship:

"Protest of the Master of a ship."

(37.) "Proxy" means an instrument whereby a person authorizes another to vote for him at a meeting:

"Proxy."

(38.) "Receipt" means any note, memorandum, writing or advertisement whatsoever, whereby any money or goods, the amount or value of which exceeds ten rupees, or any bill of exchange or promissory note or cheque for money exceeding ten rupees, is acknowledged or expressed to have been received or deposited as paid in satisfaction of a debt, or whereby any debt or demand or any part of a debt or demand exceeding ten rupees is acknowledged to have been settled, satisfied or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person:

"Receipt."

(39.) "Release" means any instrument whereby a person renounces a claim upon another person or against any specified property:

"Release."

(40.) "Respondentia-bond" means an instrument securing a loan on the cargo laden or to be laden on board a ship, and making repayment contingent on the arrival of the cargo at the port of destination:

"Respondentia-bond."

(41.) "Settlement" means any instrument (other than a will) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled: it includes a deed of dower and an assurance for religious or charitable purposes:

"Settlement."

(42.) "Schedule" and "schedules" respectively mean a schedule and schedules to this Act annexed:

"Schedule."

(43.) "Stamp" means as well a stamp impressed by means of a die as an adhesive stamp used under this Act:

"Stamp."

(44.) "Stamp law" used in reference to any instrument means the law relating to stamps in force in British India at the time of its execution: and

"Stamp law."

(45.) "Written" and "writing" includes every mode in which words or figures can be expressed upon paper.

4. The rule of the English common-law that statutes imposing charges on the subject are to be strictly construed has no application to this Act. But its provisions are to be construed so as to give effect to the will of the legislature.

Rule of construction.

CHAPTER II.

STAMP-DUTIES AND COURT-FEES CHARGEABLE UNDER THIS ACT.

5. All stamp-duties and court-fees which may from time to time be chargeable by law in respect of any instruments are to be paid and denoted by means of stamps according to the regulations herein contained, or made under the powers hereinafter conferred.

All duties to be paid according to the regulations of this Act.

6. The schedules and everything therein contained, are to be read and construed as part of this Act.

Schedules to be read as part of Act.

7. A stamp which, by any words on the face of it, or by any rule made under the power hereinafter conferred, is appropriated to any particular description of instrument, is not to be used, or, if used, is not to be available, for an instrument of any other description.

Use of appropriated stamp.

An instrument falling under the particular description to which any stamp is so appropriated

as aforesaid is not to be deemed duly stamped, unless it is stamped with the stamp so appropriated.

CHAPTER III.

STAMP-DUTIES ON INSTRUMENTS.

Scheduled duties chargeable.

8. Subject to the exemptions contained in schedule three and in any other law for the time being in force, for every instrument mentioned in the first and second schedules, and executed in British India on or after the first day of March 1878,

or executed out of British India on or after that day, but relating to, or empowering any person to deal with, any property within British India at the time of execution,

there shall be payable to the Government of India, as stamp-duty, the amount indicated in the said first or second schedule to be the proper duty for such instrument.

Instruments executed in British India.

9. Instruments executed in British India shall be stamped at the time of execution.

Instruments executed out of British India.

Instruments executed out of British India and relating to, or empowering any person to deal with, property within British India at the time of execution shall be stamped within one month after their arrival in British India; and where any such instrument requires to be stamped with an impressed stamp it shall be taken for that purpose to the Collector, who shall on payment of the proper duty stamp the same in the manner directed by the rules under this Act and certify thereon that such duty has been paid.

How instruments are to be written and stamped.

10. Every instrument written upon stamped paper is to be written in such manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument.

Not more than one instrument shall be written upon the same piece of stamped paper.

Stock and marketable securities to be valued.

11. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

Effect of statement of value.

12. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it is, so far as regards the subject-matter of such statement, to be deemed duly stamped, unless or until it is shown that such statement is untrue, and that the instrument is in fact insufficiently stamped.

Denoting stamp.

13. Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty shall, if application be made to the Collector for that purpose, and on production of both the instruments, be denoted in such manner as he thinks fit upon such first-mentioned instrument.

Use of adhesive stamps.

14. The following instruments may (subject to the provisions hereinafter contained) be stamped with adhesive stamps:—

(*a*) instruments chargeable under the second schedule with the duty of one anna;

(*b*) bills of exchange and promissory notes drawn or made out of British India;

(*c*) transfers by endorsement of shares of public companies and associations.

Duties by whom payable.

15. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(*a*) in the case of any instrument mentioned in the first schedule (other than a policy of insurance, a mortgage-deed, a settlement, a conveyance, a lease, an instrument of exchange or partition-deed where money is paid for equality of exchange or partition, an appraisement or valuation, an award and a copy, duplicate or extract) by the person drawing, making or executing such instrument:

(*b*) in the case of a policy of insurance—by the insured:

(*c*) in the case of a settlement—by the settlor:

(*d*) in the case of a conveyance, mortgage-deed or lease—by the grantee, mortgagor or lessee:

(*e*) in the case of a counterpart of a lease—by the lessor:

(*f*) in the case of a partition-deed—by the parties thereto in proportion to their respective shares in the property comprised therein:

(*g*) in the case of an exchange where money is paid for equality of exchange—by the person paying such money: and

(*h*) in the case of an exchange where no such money is paid—by the parties in equal shares.

In the case of an instrument of gift the expense of providing the proper stamp shall be borne by the donor.

Bills of exchange chargeable with duty.

16. The duty imposed by this Act on bills of exchange shall be chargeable

(*a*) on all bills drawn and payable in British India,

(*b*) on all bills drawn in, but payable out of, British India, and

(*c*) on all bills drawn out of, but accepted or paid, or endorsed, transferred, or otherwise negotiated within, British India.

Stamping bills drawn out of British India.

17. The holder of any bill of exchange or promissory note drawn or made out of British India and not stamped as required by this Act, shall, before he presents the same for acceptance or for payment, or endorses, transfers, or otherwise negotiates such bill or note, affix thereto the proper adhesive stamp or stamps required by this Act.

Power of banker in case of bills, notes and cheques received by him unstamped.

18. When any bill of exchange, cheque or promissory note chargeable hereunder with the duty of one anna comes unstamped to the hands of a banker, he may affix thereto the necessary adhesive stamp, and upon so doing, may charge the duty against the person who ought to have paid the same, or deduct such duty from the sum so directed to be paid.

Saving of liability for issuing bill, &c., unstamped.

Such bill, note or cheque shall, so far as relates to the duty chargeable thereon, be valid; but this shall not relieve any person or firm from liability to the penalty which he or it may have incurred by issuing or giving the said bill, note or cheque unstamped.

Foreign bill unstamped or with stamp uncancelled.

19. Subject to the provisions contained in section 18, no person taking a bill of exchange or promissory note drawn or made out of British India and requiring a stamp under this Act, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose, unless at the time when he so takes it, the proper stamp is affixed thereto and cancelled in manner directed by this Act.

Instruments reserving interest.

20. When interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with a duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Consideration expressed in certain foreign currencies.

21. When the consideration set forth in, or the amount secured by, any instrument chargeable under this Act is expressed in pounds sterling, pounds currency, francs or dollars, such consideration or amount shall, for the purposes of this Act, be estimated according to the following scale:—

One pound sterling or pound currency is equivalent to ten rupees:

One hundred francs are equivalent to forty rupees:

One Mexican or China dollar is equivalent to two rupees four annas:

One Mauritius dollar is equivalent to two rupees.

Valuation of money in other foreign or colonial currency for levy of duty.

22. Where an instrument is chargeable with *ad valorem* duty in respect of any money in any other foreign or colonial currency, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

Optional stamps where value of subject-matter is indeterminate.

23. When the amount or value of the subject-matter of any bond, mortgage-deed, settlement, exchange or gift chargeable under this Act with *ad valorem* duty, and referred to or mentioned in section 15 cannot be ascertained, the proper stamp to be borne by such instrument may be determined by the person bound under that section to bear the expense of providing the stamp:

Provided that, under such instrument, nothing shall be recoverable more than the highest amount or value for which, if stated in an instrument of the same denomination, the stamp actually used under such option would have been sufficient.

Amount on which duty leviable in case of bond, &c., for payment of annuity.

24. The whole amount secured for the payment of an annuity, or other sum payable periodically for an indefinite time, by a bond, promissory note, or mortgage-deed shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Amount on which duty leviable where consideration is an annuity.

25. When the consideration for a conveyance is an annuity or other sum payable periodically for an indefinite time, such consideration shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Amount on which duty leviable in case of lease where no term is expressed.

26. In the case of a lease where no term is expressed, the average annual rent payable in respect of the property comprised therein shall, for the purposes of this Act, be deemed to be the average annual rent payable under the lease for the ten years next after it commences.

Several instruments used in single transaction.

27. When more instruments than one are required for the completion of any transaction involving the execution of a mortgage-deed, settlement, conveyance or lease, the proper stamp required by this Act for such mortgage-deed, settlement, conveyance or lease, shall be borne by the principal instrument, whether the several instruments executed in such transaction are executed simultaneously or otherwise, and each of the other instruments shall, for the purposes of this Act, be deemed to be collateral.

The parties may determine for themselves which of such instruments shall, for the purposes of this Act, be deemed to be the principal instrument: Provided that, where the instruments are liable to different rates of duty under this Act, the instrument liable to the highest of such rates shall be deemed to be the principal instrument.

Instruments coming within two or more of the definitions in section 3.

28. An instrument so framed as to come within two or more of the definitions in section three shall, when the instruments to which those definitions apply are liable to different rates of duty under this Act, be charged with the highest of such rates:

Instruments conveying several subject-matters.

Provided that, when any one of such instruments purports, for distinct considerations, to convey by way of sale, to lease, to give or to mortgage two or more subject-matters,

or to convey by way of sale, to lease or to give one subject-matter and to mortgage another,

such instrument shall be chargeable with the aggregate amount of the duties to which instruments effecting separately each of such conveyances, leases, gifts or mortgages would be liable under this Act. But where such instrument is stamped with an insufficient stamp, the value of such stamp may be taken into account in computing the aggregate amount so chargeable.

Consideration to be stated.

29. (*a.*)—When any moveable or immoveable property is sold or is leased in consideration of a fine or premium, the full consideration-money directly or indirectly paid or secured, or agreed to be paid or secured for the same, shall be truly set forth in words at length in the principal or only instrument whereby the property sold or leased is conveyed to, or vested in, the purchaser or lessee or in any other person by his direction.

Mortgage-money to be deemed purchase-money.

(*b.*)—When any property is sold and conveyed subject to any mortgage or bond or other debt, or to any gross or entire sum of money, such debt or sum shall be deemed the consideration-money or part of the consideration-money (as the case may be) in respect whereof the duty chargeable under the first schedule to this Act shall be paid,

notwithstanding the purchaser is not or does not become personally liable for such debt or sum,

or does not agree to pay the same, or to indemnify the seller against the same.

(*c.*)—When one property is exchanged for another, and no money is paid for equality, the value of either property shall be set forth as aforesaid in the instrument of exchange: but where money is paid for equality, the amount so paid and the value of the property least in value shall be set forth as last aforesaid.

(*d.*)—When property is conveyed by way of gift the value of the property shall be set forth as aforesaid in the instrument of gift.

CHAPTER IV.

UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

Instruments produced in Court to be examined.

30. Every Judge and head of a public office before whom any instrument chargeable with stamp-duty under this Act is produced, shall by himself or (in the case of the Judge of a High Court or a District Court) by such officer as the Court appoints in this behalf, examine such instrument in order to ascertain whether the proper stamp-duty has been paid in respect thereof.

If such duty has not been paid in respect of such instrument, such Judge, head or officer, as the case may be, shall impound the same.

Instruments not duly stamped inadmissible in evidence.

31. No instrument chargeable under the first or second schedule shall be received in any Court of justice, or by any person having by law or consent of parties authority to receive evidence, as evidence in any civil proceeding, unless such instrument is duly stamped:

Provided that the Court or person having authority to receive evidence may, on the application of the person producing the instrument or his duly authorized agent, and on payment of the duty with which such instrument is chargeable or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with interest on the amount so paid at the rate of *five* per cent. per annum from the date of the instrument,

and on payment of an additional duty of four times the proper stamp-duty or deficient portion thereof,

receive the instrument in evidence.

Admission in criminal cases of documents for which proper fee has not been paid.

32. Whenever the filing or exhibition in a criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 30 or 31 shall be deemed to prohibit such filing or exhibition except in cases under chapter XL of the Code of Criminal Procedure.

Procedure as to instruments impounded under section 30, and not received in evidence.

33. The Judge or person having authority to receive evidence shall send to the Collector—

(*a*) every instrument impounded under section 30, and not received in evidence;

(*b*) an authenticated copy of every instrument so impounded, which has been received in evidence, together with a certificate in writing, stating the amount levied under section 31 in respect of such instrument.

No instrument impounded under section 30, and received in evidence, shall be returned to the person producing it unless and until the Collector informs the Court that its detention is no longer necessary.

Impounding unstamped instruments in public office.

34. When any instrument is produced before any registering officer, or in any public office other than a civil or criminal Court, if it appear to the registering officer or to the head of such public office that the instrument is not duly stamped, he shall impound the instrument, and (unless he himself be the Collector) send it forthwith to the Collector.

Powers of Collector as to unstamped or insufficiently stamped instruments other than bills and notes.

35. The Collector on receiving any instrument which has been sent to him under section 33 or 34, or which has come into his hands otherwise than for the purpose of obtaining an adjudication under section 43, shall determine the duty (if any) with which the instrument is chargeable.

Certificate.

If it appear to him that the instrument is duly stamped, or that it is not chargeable with stamp-duty under the law in force in British India at the time of its execution, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and he shall thereupon return such instrument to the person by whom it was produced or in whose possession it was found.

If it appears to him that the instrument is not duly stamped, the Collector shall require the person producing it, or in whose possession it has been found, to pay the proper stamp-duty or the amount required to make up the sum together with interest thereon at five per cent. per annum from the date of the instrument, and in case of failure to pay such duty and interest within fifteen days, the Collector may recover the same as if it were an arrear of land-revenue.

The Collector may also prosecute any person who appears to have committed an offence against the stamp law with reference to such instrument, or to any instrument of which an authenticated copy has been sent to him under section 33.

Endorsement of instruments on which duty has been paid under section 31 or 35.

36. When the stamp-duty with which any instrument is chargeable has been paid or recovered under section 31 or section 35, the Judge or the Collector, as the case may be, shall certify by endorsement thereon that the proper stamp-duty has been levied upon it.

Every instrument so endorsed shall be returned on application to the person who produced it, or in whose possession it was found, provided that no instrument in respect of which a prosecution has been instituted shall be so returned until the prosecution has terminated.

Subject to the provision contained in section 48, such certificate shall be conclusive evidence of the amount of stamp-duty leviable on the instrument, which shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

Right of person paying duty under section 31 or 35 when he is not bound to provide stamp.

37. When any duty has been levied under section 31 or section 35 from a person who is not bound under section 15 to provide the proper stamp, he shall be entitled, on production of the certificate mentioned in section 36 in a Civil Court of competent jurisdiction, to a decree against the person so bound under section 15 for the amount so levied.

Instruments chargeable with one anna duty.

38. Nothing contained in sections 31 and 35 applies to instruments chargeable with the duty of one anna only. Subject to the provisions of section 18, no such instrument shall be received in evidence for any purpose whatever, or be registered unless it has been stamped at the time of its execution or in accordance with the provisions of section 17.

Non-liability for loss of instruments sent under section 18, 33 or 34.

39. If any instrument sent or returned under section 18, 33 or 34, be lost, destroyed or injured during transmission, the Court or officer sending or returning the same shall not be liable for such loss, destruction or injury.

The person producing any such instrument under section 30 or section 34 may require a copy thereof to be made at his expense and authenticated by the Judge, the registering officer, or the head of the office, as the case may be; and such copy shall be kept in the Court or Office until the Judge, registering officer, or head otherwise directs.

Procedure where receipts are required.

40. When any person from whom money or other moveable property exceeding in amount or value ten rupees is due or claimed to be due, pays or delivers such money or property, the person to whom the same is paid or delivered shall give a receipt for such money or property.

Stamping unstamped receipts.

41. When any receipt comes unstamped to the hands of the person to whom it is given, he may affix thereto the necessary adhesive stamp, and upon so doing may require the person who gave it to pay the value of the said stamp.

Cancellation of adhesive stamps.

42. Whoever affixes, in accordance with the stamp law, any adhesive stamp to any instrument liable to duty shall, at the time of affixing the same, cancel such stamp by writing across it his name or initials, or, if he be a partner, the name or initials of his firm, together with the true date of his so writing, so that the stamp may be effectually cancelled and rendered incapable of being used for any other instrument.

CHAPTER V.

ADJUDICATION OF DOUBTS AS TO STAMPS.

Adjudication of doubt as to proper stamp.

43. When any instrument chargeable with stamp-duty under this Act, whether previously stamped or not, is brought to the Collector, and the person bringing it desires to have the opinion of that officer as to the duty with which it is so chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall assess and charge the duty to which, in his judgment, the instrument is liable; and upon payment of such duty or of such a sum as, with the duty already paid thereon, is equal to the duty so assessed and charged, shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable under this Act has been paid.

The instrument shall thereupon be deemed to be duly stamped and shall be receivable in evidence or otherwise in all Courts and public offices as if originally executed on paper duly stamped:

Provided that nothing contained in the former part of this section shall authorize the Collector to make any such endorsement—

(*a*) on any instrument executed in British India and brought to him after the expiration of one month from the date of its execution:

(*b*) on any instrument executed out of British India and brought to him after the expiration of two months after its arrival in British India: or

(*c*) on any instrument chargeable with the stamp-duty of one anna, when brought to him after the drawing or execution thereof on paper not duly stamped.

Payments under section 43 how made.

44. The whole or any part of any payment under section 43 shall be made in stamps or in cash, as the Governor General in Council may from time to time direct by rules under section 101.

CHAPTER VI.

REFERENCE AND REVISION.

45. (*a.*)—The Chief Controlling Revenue Authority may state any case coming before it under this Act, and refer such case with its own opinion thereon, if the case arise in the Presidency of Fort Saint George or the Presidency of Bombay, to the local High Court: if it arise in the North-Western Provinces or Oudh, to the High Court of Judicature for the North-Western Provinces: if it arise in the Panjáb, to the Chief Court of the Panjáb: if it arise in the Central Provinces, to the High Court of Judicature at Bombay: and if it arise in any other part of British India, to the High Court of Judicature at Fort William.

Reference to High Court.

(*b.*)—Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

(*c.*)—If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue Authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

(*d.*)—The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded: and it shall send to the Revenue Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving the same, dispose of the case conformably to such judgment.

46. If any Collector entertains doubt as to the amount of stamp-duty chargeable on any instrument, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue Authority, and such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty in conformity with such decision.

Procedure where Collector entertains doubt as to duty chargeable.

47. If any Court other than a High Court entertains doubt as to the amount of stamp-duty chargeable on any instrument produced before it, the Judge may draw up a statement of the case and refer it with his own opinion thereon for the decision of the High Court to which he is subordinate, and such Court shall consider the case and send a copy of its decision to the Judge making the reference who shall dispose of the case conformably to such decision.

Procedure where Court entertains doubt as to duty on instrument.

48. When any subordinate civil Court makes any certificate or order under this Act or improperly admits in evidence any instrument not duly stamped, the Court to which an appeal lies from the decrees of such subordinate Court, or the High Court may—

Revision of certificates and orders.

(*a*) call for and revise such certificate or order, or

(*b*) direct the proper stamp-duty and additional duty to be levied on the instrument so admitted, or

(*c*) pass such other order in the matter as it thinks fit.

All duty directed to be levied under this section, may be levied as if it were an arrear of land-revenue.

All certificates and orders of the Collector under this Act shall be open to revision by the Revenue Authority to which he is immediately subordinate, or by the Chief Controlling Revenue Authority:

Provided that no order passed on the revision of any certificate or order under this section shall invalidate any registration or other proceeding, previously made or taken, of or upon an instrument endorsed by the Judge or Collector under section 36 or section 43.

CHAPTER VII.

FEES IN THE CHARTERED HIGH COURTS.

49. The following fees shall be collected by adhesive stamps (namely):—

(*a*) fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Courts established by Letters Patent, by virtue of the power conferred by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15;

Levy of fees in High Courts on their original sides.

(*b*) fees chargeable in each of such Courts under No. 14 of the fourth, and Nos. 16, 23, 24, 27 and 28, of the fifth, schedule.

50. No document of any of the kinds specified in the fourth or fifth schedule as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction;

Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction.

or in the exercise of its extraordinary original criminal jurisdiction;

or in the exercise of its jurisdiction as regards appeals from the judgment of two or more Judges of the said Court, or of a Division Court;

In their appellate jurisdiction.

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence;

As Courts of reference and revision.

or in the exercise of its jurisdiction as a Court of reference or revision;

unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the same schedules as the proper fee for such document.

51. When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in any

Procedure in case of difference as to necessity or amount of fee.

of the said High Courts, be referred to the Taxing-officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice appoints either generally or specially in this behalf.

The Chief Justice shall declare who shall be Taxing-officer within the meaning of this section.

52. Nothing in this chapter applies to the commission payable to the Accountant General of the High Court at Fort William, or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

Saving of fees to certain officers of High Court.

CHAPTER VIII.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

53. Except in the Courts mentioned in Chapter VII, and subject to the exemptions contained in schedule six, no document of any of the kinds specified as chargeable in the said fourth or fifth schedule shall be filed, exhibited or recorded in any Court of justice, or shall be received by any public officer, or granted under his seal or signature, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of such schedules as the proper fee for such document.

Fees on documents filed, &c., in Mufassal Courts or in public offices.

54. If any such document is through mistake or inadvertence received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Power to stamp document inadvertently received.

55. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, and the duty with which it is chargeable is not thereby increased, it shall not be necessary to impose a fresh stamp.

Amended document.

56. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:—

Computation of fees payable in certain suits:

i. In suits for money (including suits for damages or compensation, or arrears of maintenance, or annuities or of other sums payable periodically)—according to the amount claimed:

for money:

ii. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year:

for maintenance and annuities:

iii. In suits for moveable property other than money, where the subject-matter has a market-value—according to such value at the date of presenting the plaint:

for other moveable property having a market-value:

iv. In suits—

(*a*) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

for moveable property of no market-value:

(*b*) to enforce the right to share in any property on the ground that it is joint family property,

to enforce a right to share in joint family property.

(*c*) to obtain a declaration under the Specific Relief Act, section 42,

for a declaratory decree:

(*d*) to obtain an injunction,

for an injunction:

(*e*) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for easements:

(*f*) for accounts—

for accounts:

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought:

v. In suits for the possession of land, houses and gardens—according to the value of the subject-matter; and such value shall be deemed to be—

for possession of land, houses and gardens:

where the subject-matter is land, and—

(*a*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled—

ten times the revenue so payable:

(*b*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid;

and such revenue is settled, but not permanently—

five times the revenue so payable:

(*c*) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such nett profits:

but where no such nett profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood:

(*d*) where the land forms part of an estate paying revenue to Government, but is not a definite

share of such estate and is not separately assessed as abovementioned—the market-value of the land:

Provided that, in the territories subject to the Governor of Bombay in Council, the value of the land shall be deemed to be—

Proviso as to Bombay Presidency.

(1) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government—a sum equal to five times the survey-assessment;

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment; and

(3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted.

Explanation.—The word "estate," as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or a farmer or ryot shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue.

(*e*) Where the subject-matter is a house or garden—according to the market-value of the house or garden:

for houses and gardens:

vi. In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph v of this section) of the land, house or garden in respect of which the right is claimed:

to enforce a right of pre-emption:

vii. In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint:

for interest of assignee of land-revenue:

viii. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached:

to set aside an attachment:

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest:

ix. In suits against a mortgagee or incumbrancer for the recovery of the property mortgaged, or to have the instrument of charge cancelled,

to redeem:

and in suits by a mortgagee to foreclose the mortgage,

to foreclose:

or where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money for the time being secured by the instrument of mortgage or charge:

x. In suits for specific performance—

for specific performance.

(*a*) of a contract of sale—according to the amount of the consideration:

(*b*) of a contract of mortgage—according to the amount agreed to be secured:

(*c*) of a contract of lease—according to the aggregate amount of the fine or premium (if any), and of the rent agreed to be paid during the first year of the term:

(*d*) of an award—according to the amount or value of the property in dispute:

between landlord and tenant.

xi. In the following suits between landlord and tenant, (namely)—

(*a*) for the delivery by a tenant of the counterpart of a lease,

(*b*) for the delivery by a landlord of a lease,

(*c*) to contest a notice of ejectment,

(*d*) to recover the occupancy of land from which a tenant has been illegally ejected by the landlord, and

(*e*) to establish a right of occupancy—

according to the amount of the rent of the land to which the suit refers, payable for the year next before the date of presenting the plaint,

(*f*) to enhance the rent of a tenant having a right of occupancy, and

(*g*) to abate the rent of any tenant,—

five times the amount by which the rent is sought to be enhanced or abated.

The plaint or memorandum of appeal in every suit or appeal mentioned in this section shall state the amount or value with reference to which the fee payable in respect of such plaint or memorandum is to be computed.

57. Notwithstanding anything herein contained, throughout the territories subject to the Governor of Fort St. George in Council, the fees payable in suits by Government ryots for the recovery of land sold for arrears of revenue shall not exceed the amount which would be payable if the value of the subject-matter were only the rent of the land payable for the year next before the date of presenting the plaint.

Fees in certain suits by Government ryots in Madras.

58. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

Fee on memorandum of appeal against order relating to compensation.

59. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in section 56, clauses v and vi, have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Power to ascertain nett profits or market-value.

60. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee: but if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated:

Procedure where nett profits or market-value wrongly estimated.

In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

61. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.

When the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

62. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal, shall (subject to the provisions of section 54, clause (*b*) and section 588, clause (*s*) of the Code of Civil Procedure) be decided by the Court in which such plaint or memorandum, as the case may be, is filed.

Decision of questions as to valuation.

Where any suit or appeal in which any such question has arisen comes before a Court of appeal, reference or revision, and such Court considers that the said question has been wrongly decided, to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of the second paragraph of section 60 shall apply.

63. When any appeal is presented to a civil Court, not against the whole of a decision, but only against so much thereof as relates to a portion of the subject-matter of the suit, the memorandum of appeal shall be chargeable with the fee which would have been payable if the subject-matter had been such portion only; and, if on the hearing of such appeal, the respondent takes, under section 561 of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional fee which would have been payable had the appeal comprised the part of the decision so objected to.

Additional fee where respondent takes objection to unappealed part of decree.

64. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Suit comprising more than one subject.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, section 45.

65. No document mentioned in Schedule IV or Schedule V and requiring an adhesive stamp under the rules for the time being in force under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled in manner prescribed by such rules.

Cancellation of stamp.

66. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police-officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.

Written examinations of complainants.

67. Whenever an application or petition containing a complaint or charge of an offence, other than an offence for which police-officers may arrest without warrant, is presented to a criminal Court, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee paid on such application or petition.

Repayment of fees paid on applications to criminal Courts.

In the case mentioned in section 66, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee, if any, paid by the latter for the examination.

When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this section, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay such fees to the complainant.

All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

CHAPTER IX.

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

68. Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Court by which the probate or letters has or have been granted,

Relief where too high a court-fee has been paid on probate or letters of administration.

and delivers to such Court a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Court is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Court may at its discretion—

(*a*) cancel the stamp on the probate or letters, if such stamp has not been already cancelled;

(*b*) order that another stamp be substituted for denoting the court-fee which should have been paid thereon; and

(*c*) order that an allowance for the difference between them, or a refund of the amount in money, be made as in the case of spoiled stamps.

Relief where debts due from a deceased person have been paid out of his estate.

69. Whenever it is proved to the satisfaction of such Court that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

the Court may order the amount of the difference to be refunded, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the Court may allow such further time for making the claim as may appear to be reasonable under the circumstances.

Relief in case of several grants.

70. Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

Probates declared valid as to trust-property though not covered by court-fee.

71. The probate of the will, or the letters of administration of the effects, of any person deceased, heretofore or hereafter granted, shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration.

Provision for case where too low a court-fee has been paid on probates, &c.

72. When any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Court by which the probate or letters has or have been granted, may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value, and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or if it or they is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters:

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters, and if the Court is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper court-fee, the Court may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

Administrator to give proper security before letters stamped under section 79.

73. In case of letters of administration on which too low a court-fee has been paid at first, the said authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had then been ascertained.

Executors, &c., not paying full court-fee on probates, &c., within six months after discovery of underpayment.

74. Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper court-fee.

Collector to deliver or pay stamp or amount directed by Court.

75. When any Court orders under this chapter any stamp to be substituted or amount to be refunded, such stamp or amount shall be delivered or paid by any Collector to the person producing the Court's order or certificate authorizing such delivery or payment.

This chapter applied to certificates under Acts XL of 1858, XXVII of 1860 and XX of 1864.

76. The provisions of this chapter shall, *mutatis mutandis*, apply to certificates granted under Act No. XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), or Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), or Act No. XX of 1864 (*for making better provision for the care of the persons and property of Minors in the Presidency of Bombay*), or Bombay Regulation VIII of 1827 (*to provide for the formal recognition of Heirs, Executors and Administrators, and for the appointment of Administrators and Managers of property by the Courts*), and to the holders of such certificates.

CHAPTER X.

REFUNDS.

Allowance for spoiled stamps.

77. Subject to such rules as may from time to time be made by the Governor General in Council as to the evidence, by affidavit or otherwise, which the Collector may require, allowance shall be made by the Collector for stamps spoiled in the cases hereinafter mentioned (that is to say):—

(1.) The stamp on any paper inadvertently and undesignedly spoiled, obliterated, or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any party, and for which stamp no money or other consideration has been paid or given to the attorney, pleader, or other person employed to transact the business intended to have been carried into execution thereby, or to the person by whom the same was written:

(2.) Any adhesive stamp which has never been used or affixed to any paper, but which has been inadvertently and undesignedly spoiled or rendered unfit for use:

(3.) The stamp used or intended to be used for any bill of exchange or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of the hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negociated, issued, or put in circulation, or made use of in any other manner whatever, and which being a bill of exchange has not been accepted by the drawee, and provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange to be afterwards written thereon:

(4.) The stamp used or intended to be used for any bill of exchange or promissory note signed by or on behalf of the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange, may have been presented for acceptance or accepted or endorsed, or being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such error or omission as aforesaid, with the spoiled bill or note:

(5.) The stamp used for any of the following instruments, that is to say:—

(*a*) an instrument executed by any party thereto, but afterwards found to be absolutely void in law from the beginning:

(*b*) an instrument executed by any party thereto, but afterwards found unfit by reason of any error or mistake therein for the purpose originally intended:

(*c*) an instrument executed by any party thereto, but which by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to effect the intended transaction in the form proposed:

(*d*) an instrument executed by any party thereto which for want of the execution thereof by some material and necessary party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended:

(*e*) an instrument executed by any party thereto, which by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted totally fails of the intended purpose:

(*f*) an instrument executed by any party thereto, which for want of registration within the time required by law becomes null and void:

(*g*) an instrument executed by any party thereto, which becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped:

(*h*) an instrument executed by any party thereto, which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided as follows:—

(1.) that in the case of an executed instrument,

(*a*) that instrument is given up to be cancelled:

(*b*) the application for relief is made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where from unavoidable circumstances any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent abroad, and in that case within six months after it has been received back in any part of British India:

(*c*) no suit has been instituted in which the instrument could or would have been given or offered in evidence:

(2.) that in the case of stamped paper, not having any executed instrument written thereon, and of an adhesive stamp not affixed to any material, the application for relief is made within six months after the stamp has been spoiled, as aforesaid.

Allowance for misused stamps.

78. When any person has inadvertently used for an instrument liable to duty a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not liable to any duty, the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within

six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if liable to any duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused.

Allowance how to be made.

79. In any case in which allowance is made for spoiled or misused stamps the Collector may give in lieu thereof other stamps of the same denomination and value, or, if required, and he thinks proper, stamps of any other denomination to the same amount in value, or, at his discretion, the same value in money, deducting the proper allowance on the purchase from Government of stamps of the like description.

Repurchase of stamps not wanted.

80. When any person is possessed of a stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector may, if he in his discretion think fit, repay to the applicant the amount or value of such stamp in money, deducting the proper discount, upon his delivering up the stamp to be cancelled, and proving to the Collector's satisfaction that it was purchased by the applicant with a *bonâ fide* intention to use it, and that he has paid the full value thereof without any deduction (except only the amount of such discount), and that the stamp was so purchased within the period of six months next preceding the application.

Refund of fee paid on memorandum of appeal.

81. If a plaint or appeal which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in section 562 of the same Code, for a second decision by the lower Court, the appellate Court may grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

Provided that, if, in the case of a remand in appeal, the order of remand does not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

Refund of fee on application for review of judgment.

82. When an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

Refund where Court reverses or modifies its former decision on ground of mistake.

83. When an application for a review of judgment is admitted, and on the re-hearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector the fee paid on the application.

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

Refund where plaint rejected for merely technical defect.

84. When a plaint disclosing a reasonable case on the merits is presented to any civil Court in such a form that the Judge rejects it, not for any substantial defect, but on account of a purely technical error in form only, and so as to leave the plaintiff free to prosecute the same case in another form against the same defendant, the value of the stamp on the plaint shall be refunded to the plaintiff on his presenting an application to the Collector of the District in which the Court is situate, together with a certificate from the Judge who rejected the plaint, that it was rejected under the circumstances above described and that in his opinion the value of the stamp should be refunded.

Remission of additional duty levied under section 31.

85. The Chief Controlling Revenue Authority may upon application remit wholly or in part any additional duty levied under section 31.

CHAPTER XI.

CRIMINAL PENALTIES.

Penalty for executing instrument on paper not duly stamped.

86. Any person making, signing or issuing, or, except as provided in section 18, accepting, endorsing, paying, or receiving payment of any bill of exchange, promissory note, cheque, or other similar instrument liable to any of the duties hereby imposed, without the same being duly stamped,

and any person making, executing or signing otherwise than as a witness any other instrument liable to any of such duties without the same being duly stamped,

shall, for every such offence, be liable to a fine not exceeding two hundred rupees.

Penalty for presenting, &c., unstamped foreign bills or notes.

87. Any person presenting for acceptance or for payment, or accepting, paying, endorsing, transferring or in any manner negociating, any bill of exchange or promissory note drawn or made out of British India whereon there is not such stamp as is required by this Act, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Refusal to give receipt.

88. Any person required by section 40 to give a receipt and refusing or neglecting to give the same shall be liable for every such offence to a fine not exceeding one hundred rupees.

Penalty for failure to cancel such stamps.

89. Any person required to cancel an adhesive stamp in manner directed by section 42, and refusing or neglecting so to do, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

90. When a bill of exchange or policy of insurance purports to be drawn or executed in a set of two or more, any person using the second or third of a set, the first of which has not been duly stamped, shall, for every such offence, be liable to a fine not exceeding one thousand rupees.

Penalty for not stating consideration.

91. If the full consideration-money or value is not set forth in any instrument as required by section 29, the grantor and grantee shall each be liable to a fine not exceeding five hundred rupees, and shall also pay a fine of five times the amount of the excess of duty with which such instrument would have been chargeable under this Act, if the full consideration-money or value had been duly set forth in such instrument, in addition to the duty actually paid for the same.

Penalty on attorneys, &c., not inserting true consideration.

92. Any attorney, vakíl, pleader, mukhtár or other person employed in or about the preparing of any instrument in or upon which the full consideration-money or value is hereby required to be truly set forth,

or employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned,

who knowingly inserts or sets forth, or causes to be inserted or set forth, in or upon any such instrument any other than the full consideration-money or value,

shall, for every such offence, pay a fine not less than five hundred rupees and not exceeding five thousand rupees.

Every attorney, vakíl, pleader and mukhtár convicted under this section shall, from the date of such conviction, be disabled to practise as an attorney, vakíl, pleader or mukhtár:

Provided that no person shall be liable to any penalty or disability under this section, unless the duty actually paid for the instrument is less than would have been payable for the same in case the consideration-money or value had been truly set forth as aforesaid.

Fraudulent removal, sale, &c., of adhesive stamps.

93. Whoever commits any of the following offences (namely):—

(*a*) fraudulently removes, or causes to be removed from any instrument any adhesive stamp or affixes any adhesive stamp which has been so removed to any other instrument with intent that such stamp may be used again;

(*b*) sells or offers for sale or utters any adhesive stamp which has been so removed, or utters any instrument having thereon any adhesive stamp which has to his knowledge been so removed as aforesaid;

(*c*) practises or is concerned in any fraudulent act, contrivance or device not specially provided for, with intent to defraud the Government of any stamp-duty or court-fee,

shall forfeit, over and above any other penalty to which he may be liable, the sum of five hundred rupees, and in default of payment shall be imprisoned for a term which may extend to six months.

Penalty for stamp-vendor disobeying rules.

94. Any person appointed to sell stamps, who knowingly disobeys any rule made under section 101, and any person not so appointed who sells or offers for sale any stamp, shall be punished with simple imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Reward to informers.

95. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half to the person on whose information the offender has been convicted.

Institution and conduct of prosecutions.

96. All prosecutions in respect of any offence punishable by this Act, shall be conducted by the Collector or such other officer as the Local Government generally or the Collector specially authorizes in that behalf.

Magistrates having jurisdiction.

97. Offences punishable under this Act may be tried, within the limits of the towns of Calcutta, Madras and Bombay, by a Magistrate of Police, and, beyond those limits, by a Magistrate of the first class or a Magistrate of the second class:

Provided that, in imposing penalties under this Act, no such person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure.

CHAPTER XII.

MISCELLANEOUS.

Employment of single impressed stamp.

98. When an impressed stamp is used to defray the amount of duty with which any instrument is chargeable, such amount shall be defrayed by a single stamp, except when such amount exceeds one thousand rupees, in which case it may be defrayed by two or more impressed stamps of which the aggregate amount is the amount so required:

Provided that, when a single impressed stamp of any amount less than one thousand rupees is not procurable on application to the Collector or stamp-vendor appointed under the rules hereinafter mentioned, it shall be lawful, on such officer making a certificate to that effect, for the person requiring such stamp to defray the amount by two or more impressed stamps, of which the aggregate amount is the amount so required.

Employment of several stamped papers.

99. When more stamped papers than one are used under section 98 for an instrument chargeable with stamp-duty under this Act, each paper so used shall contain a part of the instrument.

Power to reduce or remit rates of stamp-duty.

100. The Governor General in Council may from time to time, by order published in the *Gazette of India*, reduce or remit, in the whole or any part of British India, the duties or fees chargeable under this Act on all or any of the instruments mentioned in the schedules, or on any particular class of such instruments, or on any of the instruments belonging to such class, or on any of the instruments mentioned in the schedules when executed or granted by or to any particular class of persons, or by or to any members of such class,

and may in like manner cancel or vary such order to the extent of the powers hereby given.

Every such cancelment or variation shall be published in the *Gazette of India*.

Power to make subsidiary rules.

101. The Governor General in Council may from time to time frame rules consistent with this Act for regulating the following matters:—

(*a*) the description of stamp for denoting the duty or fee chargeable on every instrument under the stamp law:

(*b*) the supply and sale of stamps, the persons by whom such sale is to be conducted, and the duties and remuneration of such persons:

(*c*) the size and shape of the stamped paper to be used for bills of exchange:

(*d*) the classes of officers to be empowered to perform the functions of a Collector under chapter X, and the evidence which the Collector and such officers may require:

(*e*) the mode of cancelling court-fee stamps and the persons by whom such cancellation is to be effected:

(*f*) the keeping accounts of all stamps used under chapters VII and VIII:

Approval and publication of rules.

Such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

SCHEDULE I.

AD VALOREM STAMP-DUTIES.

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
Class I.		
1. BILL OF EXCHANGE PAYABLE AT SIGHT OR AT ANY PERIOD NOT EXCEEDING ONE YEAR AFTER DATE OR SIGHT.*	When the amount of the Bill or Note does not exceed ... ... Rs. 100	Two annas.
2. PROMISSORY NOTE SO PAYABLE.	and when the amount exceeds ... Rs. 100 but does not exceed ... Rs. 250	Four annas.
	Do. ... 250 do. ... 500	Eight annas.
	Do. ... 500 do. ... 750	Twelve annas.
	Do. ... 750 do. ... 1,000	One rupee.
	and for every 1,000 or part thereof in excess of ... 1,000	One rupee.
3. INSTRUMENT EVIDENCING AN AGREEMENT TO SECURE THE REPAYMENT ON OR BEFORE THE EXPIRATION OF THREE MONTHS FROM THE DATE OF SUCH INSTRUMENT OF A LOAN MADE UPON THE DEPOSIT OF TITLE DEEDS OR OTHER VALUABLE SECURITY.	... ...	One-half of the stamp-duty payable on a Bill of Exchange for the amount secured.
4. POLICY OF INSURANCE.*		
Class II.		
5. BOND (NOT OTHERWISE PROVIDED FOR BY THIS ACT) FOR ANY SPECIFIED AMOUNT.	When the amount secured does not exceed ... Rs. 50	Four annas.
6. BOTTOMRY-BOND...	When such amount exceeds ... Rs. 50, but does not exceed ... Rs. 100	Eight annas.
7. RESPONDENTIA-BOND.	and for every ... Rs. 100 or part thereof in excess of ... Rs. 100 up to ... Rs. 1,000	Eight annas.
8. SETTLEMENT.	and for every ... Rs. 1,000 or part thereof in excess of ... Rs. 1,000	Five rupees.

* NOTE.—When any bill or policy coming under No. 1 or No. 4 is drawn in a set, the proper stamp shall be borne by the first of the set, and the remaining parts must be stamped by the Collector "duty-paid."

SCHEDULE I—*continued.*

AD VALOREM STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
9. BILL OF EXCHANGE PAYABLE AT A PERIOD EXCEEDING ONE YEAR AFTER DATE OR SIGHT.	... ...	The same duty as a Bond (No. 5) for the amount of such Bill or Note.
10. PROMISSORY NOTE SO PAYABLE.		
11. PARTITION-DEED	... ...	The same duty as a Bond (No. 5) for an amount equivalent to the value of the entire property distributed.
12. ASSIGNMENT (OTHERWISE THAN BY INDORSEMENT) OF ANY INTEREST SECURED BY A BOND, MORTGAGE-DEED, OR POLICY OF INSURANCE.	(*a*). When the amount or value of such interest does not exceed ... Rs. 1,000	The same duty as a Bond (No. 5) for such amount or an amount equivalent to such value.
	(*b*). In any other case	Five rupees.
13. ADMINISTRATION-BOND.		
14. BOND OR MORTGAGE-DEED FOR THE EXECUTION OF AN OFFICE, OR TO ACCOUNT FOR MONEY RECEIVED BY VIRTUE THEREOF.	(*a*). When the amount secured does not exceed ... Rs. 1,000	The same duty as a Bond (No. 5).
	(*b*). In any other case	Five rupees.
15. CUSTOMS-BOND ...		
16. INDEMNITY-BOND.		
17. APPRAISEMENT OR VALUATION— OF ANY PROPERTY OR OF ANY INTEREST THEREIN, OR OF THE ANNUAL OR MONTHLY VALUE OF SUCH PROPERTY, OR OF ANY REPAIRS WANTED, OR OF THE MATERIALS USED OR TO BE USED IN ANY BUILDING, OR OF ANY ARTIFICER'S WORK.	(*a*). Where the amount of such appraisement or valuation does not exceed ... Rs. 1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case	Five rupees.

SCHEDULE I—*continued.*

AD VALOREM STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
18. AWARD	(*a*). Where the amount or value of the property in dispute does not exceed Rs. 1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case ...	Five rupees.
Class III.		
19. CONVEYANCE ...	When the amount paid or secured or the value expressed does not exceed 50	Eight annas.
	Exceeds ... 50 but does not exceed 100	One rupee.
20. INSTRUMENT OF GIFT, OR EXCHANGE OF ANY PROPERTY, NOT OTHERWISE PROVIDED FOR.	For every ... 100 or part thereof in excess of Rs. 100 up to ... 1,000	One rupee.
	and for every 1,000 or part thereof in excess of 1,000	Ten rupees.
21. TRANSFER OF A SHARE IN A COMPANY OR ASSOCIATION.	... ...	One-quarter of the duty payable on a Conveyance.
Class IV.		
22. MORTGAGE-DEED	(*a*). When possession of the property comprised therein is not given by the mortgagor at the time of execution.	The same duty as a Bond (No. 5) for the amount secured by such deed or instrument.
23. INSTRUMENT OF FURTHERCHARGE ON THE MORTGAGED PROPERTY.	(*b*). When possession of the property comprised therein is given by the mortgagor at the time of execution.	The same duty as a Conveyance for a consideration equivalent to the amount secured by such deed or instrument.
24. RELEASE OF ANY CLAIM OVER PROPERTY, WHETHER SECURED BY MORTGAGE-DEED OR NOT.	(*a*). If the amount of the claim does not exceed ... 1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case ...	Five rupees.
25 RECONVEYANCE OF MORTGAGED PROPERTY.	(*a*). If the consideration for which property was mortgaged does not exceed... 1,000	The same duty as a Conveyance.
	(*b*). In any other case ...	Ten rupees.

SCHEDULE I—*concluded.*

AD VALOREM STAMP-DUTIES.—*concluded.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
26. LEASE	(*a*). Where the lease is expressed to be for a term—	
	(*aa*) of less than one year ...	The same duty as a Bond (No. 5) for the whole amount payable under such lease.
	(*bb*) of not less than one year, but not more than three years.	The same duty as a Bond (No. 5) for the average annual rent reserved.
	(*cc*) exceeding three years, or where no term is expressed.	The same duty as a Conveyance for a consideration equal to the amount of the average annual rent reserved.
	(*b*). Where the lease is granted for a fine or premium, and where no rent is reserved.	The same duty as a Conveyance for consideration equal to the amount of such fine.
	(*c*). Where the lease is granted for a fine or premium in addition to rent reserved.	The same duty as a Conveyance for consideration equal to the amount of such fine, in addition to the duty payable on such lease if no fine or premium had been paid.
27. SURRENDER OF LEASE.	(*a*). When the duty payable on the lease does not exceed five rupees.	The same duty as is payable on the lease.
	(*b*). In any other case	Five rupees.
28. COPY, DUPLICATE OR EXTRACT ATTESTED TO BE A TRUE COPY, DUPLICATE OR EXTRACT, AND NOT PROVIDED FOR IN THE FOURTH OR FIFTH SCHEDULE.	(*a*). If the duty payable on the original does not exceed eight annas.	The same duty as is payable on the original.
	(*b*). In any other case	Eight annas.
29. COUNTERPART OF ANY INSTRUMENT UPON WHICH DUTY IS PAYABLE.	(*a*). If the duty payable on the original instrument is less than one rupee.	The same duty as is payable on the original.
	(*b*). In any other case	One rupee.

SCHEDULE II.

FIXED STAMP-DUTIES.

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
I.	
1.—AGREEMENT OR MEMORANDUM OF AN AGREEMENT relating to the sale of any Government Security, Share in a Company or Association, or Bill of Exchange	One anna.
2.—BILL OF EXCHANGE, PROMISSORY NOTE, CHEQUE OR ORDER for the payment on demand of an amount exceeding ten rupees	
3.—CERTIFICATE OR OTHER DOCUMENT purporting to denote the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Association, or proposed Company or Association, or to become proprietor of shares, scrip or stock in or of any such Company or Association ...	
4.—DELIVERY ORDER	
5.—LETTER OF CREDIT	
6.—LETTER OF ALLOTMENT OF SHARES in any Company or proposed Company, or in any loan to be raised by any Company or proposed Company	
7.—NOTE OR MEMORANDUM written in any book, or written on a separate paper, whereby any account, debt or demand or any part of any account, debt or demand therein specified and amounting to ten rupees or upwards, is expressed to have been balanced or is acknowledged to be due (*a*)	
8.—PROXY to vote at any one meeting of—	
(*a*).—Members of a Company or Association whose stock or funds is or are divided into shares and transferable	
(*b*).—Municipal Commissioners	
(*c*).—Justices of the Peace, being a body corporate ...	
(*d*).—Proprietors, members or contributors to the funds of any institution	
9.—RECEIPT OR DISCHARGE	
10.—SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel	
II.	
11.—BILL OF LADING (*b*)	Four annas.
12.—DOCK-WARRANT	
13.—INSTRUMENT OF EXCHANGE whereby the owner or occupier of land in a village in the Presidency of Bombay relinquishes his rights therein to the Local Government, upon the site of the village being changed, and accepts rights in other land in exchange for the rights so relinquished	

NOTES.—(*a*). If the acknowledgment is accompanied by any promise to pay the amount acknowledged or any part thereof, the provisions of section 28 apply.

(*b*). When a Bill of lading is drawn in sets, the proper stamp therefor must be borne by each one of the sets.

SCHEDULE II—*continued.*

FIXED STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
III.	
14.—AGREEMENT by the acceptor of the occupancy of land denoted by a survey number to pay revenue therefor under the Bombay Act I of 1865, section 28 (*c*) ...	Eight annas.
15.—AGREEMENT OR MEMORANDUM OF AN AGREEMENT not otherwise provided for by this Act (*d*) ...	
16.—NOTICE OF PROTEST by the master or owner of a ship	
17.—POWER-OF-ATTORNEY for the sole purpose of presenting one or more documents for registration in relation to a single transaction	
IV.	
18.—AFFIDAVIT	One rupee.
19.—CHARTER-PARTY	
20.—COLLATERAL INSTRUMENT	
21.—NOTARIAL ACT	
22.—POWER-OF-ATTORNEY authorizing a person to act in a single transaction, not being the presentation of documents for registration	
23.—PROTESTS—	
A.—Of a Bill of Exchange or Promissory Note ...	
B.—Of the master or owner of a ship	
V.	
24.—CONVEYANCE OF ANY PROPERTY without consideration otherwise than by gift, exchange, or partition ...	Five rupees.
25.—INSTRUMENT OF APPRENTICESHIP	
26.—INSTRUMENT OF DISSOLUTION OF PARTNERSHIP	
27.—INSTRUMENT OF DIVORCE	
28.—POWER-OF-ATTORNEY authorizing a person to act for another in more than one transaction or generally ...	

NOTES.—(*c*). Provided that when the yearly revenue assessed on the land to which such agreement refers is less than eight annas, the agreement shall be subject to duty not exceeding the amount of such revenue.

(*d*). When two or more letters are tendered in evidence to prove any agreement between the writers thereof, it is sufficient if one of such letters is stamped as an agreement.

SCHEDULE II—*continued.*

FIXED STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
VI.	
29.—COMPOSITION-DEED	Ten rupees.
30.—INSTRUMENT OF CO-PARTNERSHIP	
31.—INSTRUMENT (OTHER THAN A WILL) PURPORTING TO CONFER AN AUTHORITY TO ADOPT...	
32.—INSTRUMENT OF TRANSFER under the Administrator General's Act (section 31)	
33.—LETTER OF LICENSE	
34.—LICENSE granted under the Arms Act (section 7) ...	
35.—REVOCATION OF ANY USE OR TRUST of or concerning any property	
36.—THIRD CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*d*)	
37.—THIRD CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) (*d*)	
VII.	
38.—APPOINTMENT in execution of a power, whether of trustees or of property, where made by any writing not being a Will	Fifteen rupees.
39.—DECLARATION OF ANY USE OR TRUST of or concerning any property where made by any writing not being a Will	
40.—ARTICLES OF ASSOCIATION OF A COMPANY ...	
41.—MEMORANDUM OF ASSOCIATION OF A COMPANY	
42.—SECOND CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*e*)	
43.—SECOND CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) (*e*)	
44.—THIRD CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) (*d*)	

NOTES.—(*d*). A third class certificate authorizes—

(1). *A Pleader* to practise in the Courts of Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs.

(2). *A Mukhtár* to practise in the Courts of Commissioners of Circuit, Magistrates, Munsifs, Assistant Commissioners and Extra Assistant Commissioners.

(3). *A Revenue-Agent* to practise in the office of a Collector or any office subordinate thereto.

(*e*). A second class certificate authorizes—

(1). *A Pleader or Mukhtár* to practise in the District Courts and all Courts subordinate thereto.

(2). *A Revenue-Agent* to practise in the office of a Commissioner or any office subordinate thereto.

SCHEDULE II—*concluded.*

FIXED STAMP-DUTIES—*concluded.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
VIII.	
45.—FIRST CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*f*)	Twenty-five rupees.
46.—FIRST CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) (*f*)...	
47.—SECOND CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) (*e*)	
IX.	
48.—FIRST CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) (*f*)...	Fifty rupees.
X.	
49.—PETITION FOR LEAVE TO FILE A SPECIFICATION OF AN INVENTION or for the extension of the term of the exclusive privilege of making or using or selling such invention in India (under Act XV of 1859)	One hundred rupees.
XI.	
50.—ADMISSION AS AN ATTORNEY IN ANY HIGH COURT	Two hundred and fifty rupees.
XII.	
51.—ARTICLES OF CLERKSHIP OR CONTRACT whereby any person becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court ...	Five hundred rupees.
52.—ENROLMENT AS AN ADVOCATE OF ANY HIGH COURT	

NOTE.—(*f*.) A first class certificate authorizes—

(1). *A Pleader or Mukhtár* to practise in the High Court and all Courts subordinate thereto.

(2). *A Revenue-Agent* to practise in the Board of Revenue or any office subordinate thereto.

SCHEDULE III.

EXEMPTIONS FROM STAMP-DUTY.

1. Affidavit when made—

(*a*). for the sole purpose of enabling any person to receive any pension or charitable allowance; or

(*b*). for the immediate purpose of being filed or used in any Court or before the officer of any Court; or

(*c*). as a condition of enlistment under the Indian Articles of War.

2. Agreement or memorandum of agreement—

(*a*). for or relating to the sale of goods or merchandize exclusively;

(*b*). made by ryots for the cultivation of the poppy for Government.

3. Any instrument whether executed by or in favour of Government in cases where the Government would but for this exemption be liable to pay for the stamp thereon.

4. Appraisement or valuation made for, and for the information of one party only, and not being in any manner obligatory as between parties either by agreement or operation of law.

5. Assignment of copyright by entry made under Act No. XX of 1847, section 5.

6. Awards and agreements made under the Land Acquisition Act, 1870.

7. Bond when executed by—

(*a*). the sureties of middlemen (lambardárs or khattadárs), taking advances for the cultivation of the poppy for Government;

(*b*). headmen nominated under rules framed in accordance with the Bengal Act III of 1876, section 99, for the due performance of their duties under that Act;

(*c*). any person for the purpose of guaranteeing that the local income derived from private subscriptions of a charitable dispensary or hospital shall not be less than a specified sum per mensem.

8. Contracts for service in British Burma under the Chief Commissioner of that province entered into between Natives of India emigrating to British Burma and the Superintendent of State Emigration or other Government officer acting as representative of the said Chief Commissioner.

9. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

10. Counterpart of any instrument exempted from stamp-duty by this Schedule.

11. Instrument of Apprenticeship relating to any poor child apprenticed by or at the sole charge of any public charity.

12. Instruments executed by salaried officers of Government to secure the due performance of their duties.

13. Leases—

(*a*). When granted to or by a person cultivating any land with his own hands, unless a fine or premium be paid in consideration of such lease.

(*b*). Of fisheries granted under the Burma Fisheries Act, VII of 1875.

14. Letter of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy of insurance, nothing shall be recoverable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

15. Letters of hypothecation accompanying a bill of exchange.

16. Receipts—

(*a*). given for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army when serving in such capacity:

(*b*). given for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity:

(*c*). given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said armies, and serving in such capacity:

SCHEDULE III—*concluded.*

EXEMPTION FROM STAMP-DUTY—*concluded.*

(*d*). given for money or securities for money deposited in any bank or in the hands of any banker or person acting as a banker to be accounted for:

Provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for:

Provided further, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

17. Receipt or discharge—

(*a*). granted to a cultivator for the rent of land paying revenue to Government, or (in the Presidencies of Madras and Bombay) of inám lands: or

(*b*). endorsed on or contained in any instrument duly stamped according to the law in force in British India at the date of its execution, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity or other periodical payment thereby secured.

18. Surrender of lease executed by a person cultivating the land with his own hand to his landlord.

19. Tenders to the Government of India on account of any loan.

20. Transfers by endorsement—

(*a*). of a negotiable instrument or policy of insurance:

(*b*). of securities of the Government of India.

SCHEDULE IV.

AD VALOREM COURT-FEES.

NUMBER.		PROPER FEE.
1. Plaint or memorandum of appeal (not otherwise provided for in this Act), presented to any civil or revenue Court, except High Courts established by letters patent and Courts of Small Causes.	When the amount or value of the subject-matter in dispute does not exceed five rupees	Six annas.
	When such amount or value exceeds five rupees—For every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees	Six annas.
	When such amount or value exceeds one hundred rupees—For every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees	Twelve annas.
	When such amount or value exceeds one thousand rupees—For every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees	Five rupees.
	When such amount or value exceeds five thousand rupees—For every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees	Ten rupees.
	When such amount or value exceeds ten thousand rupees—For every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees ...	Fifteen rupees.
	When such amount or value exceeds twenty thousand rupees—For every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees	Twenty rupees.
	When such amount or value exceeds thirty thousand rupees—For every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees	Twenty rupees.
	When such amount or value exceeds fifty thousand rupees—For every five thousand rupees, or part thereof, in excess of fifty thousand rupees	Twenty-five rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be three thousand rupees.	
2. Plaint presented to any Court of Small Causes.	When the amount or value of the subject-matter in dispute does not exceed five rupees	Eight annas.
	When such amount or value exceeds five rupees—For every five rupees or part thereof in excess of five rupees up to one hundred rupees	Eight annas.
	When such amount or value exceeds one hundred rupees—For every ten rupees or part thereof in excess of one hundred rupees up to one thousand rupees	One rupee.

SCHEDULE IV—*continued.*

AD VALOREM COURT-FEES—*continued.*

NUMBER.		PROPER FEE.
3. Plaint in a suit for possession under the Specific Relief Act, 1877, section 42.	... ...	A fee of one-half the amount prescribed in the foregoing scale.
4. Application for review of judgment or a new trial, if presented on or after the ninetieth day from the date of the decree.	... ...	The fee leviable on the plaint or memorandum of appeal in the suit in which the application is presented.
5. Application for review of judgment or a new trial, if presented before the ninetieth day from the date of the decree.	... ...	One-half of the fee leviable on the plaint or memorandum of appeal in the suit in which the application is presented.
6. Applications under sections 523 or 525 of the Code of Civil Procedure. 7. Agreement under section 527 of the Code of Civil Procedure.	(*a*).—When the amount or value of the subject-matter in dispute does not exceed Rs. 500.	One-half of the fee payable on a plaint in a suit.
	(*b*).—In any other case	Twenty rupees.
8. An authenticated copy or translation of a judgment or order not being, or having the force of, a decree.	When such judgment or order is passed by any civil Court other than a High Court, or by the presiding officer of any revenue Court or office, or by any other judicial or executive authority—	
	(*a*).—If the amount or value of the subject-matter is fifty or less than fifty rupees	Four annas.
	(*b*).—If such amount or value exceeds fifty rupees	Eight annas.
	When such judgment or order is passed by a High Court	One rupee.
9. An authenticated copy of a decree or order having the force of a decree.	When such decree or order is made by any civil Court other than a High Court, or by any revenue Court—	
	(*a*).—If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees	Eight annas.
	(*b*).—If such amount or value exceeds fifty rupees	One rupee.
	When such decree or order is made by a High Court	Four rupees.
10. An authenticated copy of any document liable to stamp-duty under Schedule I, when left by any party to a suit or proceeding in place of the original withdrawn.	(*a*).—When the stamp-duty chargeable on the original does not exceed eight annas ...	The amount of the duty chargeable on the original.
	(*b*).—In any other case	Eight annas.

SCHEDULE IV—*concluded.*

AD VALOREM COURT-FEES—*concluded.*

NUMBER.		PROPER FEE.
11. Certificate of administration granted under Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), or under Act No. XX of 1864 (*for making better provision for the care of the persons and property of minors in the Presidency of Bombay.*)*	If the amount or value of the property in respect to which such certificate is granted does not exceed five hundred rupees	Five rupees.
	If such amount or value exceeds five hundred rupees but not one thousand rupees ...	Ten rupees.
	And for every one thousand rupees, or part thereof, in excess of one thousand rupees ...	Ten rupees.
12. Certificate granted under Bombay Regulation VIII of 1827 (*to provide for the formal recognition of Heirs, Executors and Administrators, and for the appointment of Administrators and Managers of Property by the Courts.*)*		
13. Certificate granted under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*)*	If the amount or value of the property in respect of which the probate or letters or certificate shall be granted exceeds one thousand rupees	Two and a half per centum on such amount or value.
14. Probate of a will or letters of administration with or without will annexed.	*Explanation.*—Property which a trustee has power to appoint as he thinks fit is property within the meaning of Nos. 12, 13 and 14.	

* NOTE.—The person to whom any such certificate is granted, or his representative, shall after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realised by him under such certificate.

If the monies so recovered or realised exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same and order such person to take out a fresh certificate and pay the fee prescribed by this Schedule for such excess.

In default of filing such statement within the time allowed, the Court may cancel the certificate.

A certificate which has become liable to cancellation under any of the provisions of this Note, shall remain in force until it is actually cancelled.

SCHEDULE V.

FIXED FEES.

DESCRIPTION OF DOCUMENT.		PROPER FEE.
1. Application in writing, by any person having dealings with the Government, and relating exclusively to such dealings.	When presented to any officer of the Customs or Excise Department, or to any Magistrate.	One anna.
2. Application in writing, by any person holding temporarily settled land under direct engagement with Government, and relating exclusively to such engagement.	When presented to any officer of land-revenue.	
3. Application in writing, and relating to the conservancy or improvement of any place.	When presented to any Municipal Commissioner.	
4. Application in writing for the refund of any money paid by or on behalf of the applicant to Government.	When presented to any officer of the Customs, Excise or Revenue Department, or any Executive Authority.	
5. Application in writing for the renewal or refund of value of spoiled stamps.	When presented to any Collector or other officer authorized to grant such renewal or refund.	
6. Application in writing, in reference to any suit or case of which the subject-matter is less than fifty rupees in amount or value.	When presented to any civil Court subordinate to a district Court (under the Code of Civil Procedure, 1877) or to a Collector or Revenue Officer subordinate to a Collector.	
7. Application in writing for the delivery of a copy or translation of any judgment, decree or order, or a copy of any other document.	When presented to any Court or Executive Authority, and relating to a judgment, decree or order passed by such Court or authority or a record in such Court or the office of such Executive Authority.	
8. Petition of objection under the North-Western Provinces License Act, 1877.	When presented to any Collector—	
	(*a*) by a person charged under Class III ...	One anna.
	(*b*) by a person charged under Class II ...	Four annas.
9. Application in writing under Chapter II, III, IV, X or XVI of the Civil Procedure Code, 1877.	When presented to any Civil Court subordinate to a High Court, and relating to any suit or case of which the subject-matter is not less than fifty rupees in amount or value ...	Four annas.

SCHEDULE V—*continued.*

FIXED FEES—*continued.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
10. Application in writing for the determination by any Court of the amount of compensation to be paid by a landlord to his tenant, or to deposit in any Court revenue or rent*.	.....	Eight annas.
11. Bail-bond or other instrument of obligation guaranteeing the attendance of the person by whom or on whose behalf the bond or instrument is executed when required.	When given by direction of any Court or Executive Authority.	
12. Complaint in writing of any offence other than an offence for which a Police Officer may under the Criminal Procedure Code arrest without warrant.	When presented to any Criminal Court.	
13. Copy—duly authenticated—of any document taken out of a Civil or Criminal Court or Revenue Office or from the Office of any Commissioner or Magistrate and not otherwise provided for by this Act.	For every sheet of paper on which such copy is engrossed.	
14. Plaint or memorandum of appeal in a suit to obtain possession under Act No. XVI of 1838, or the Mamlatdárs' Courts Act, 1876.	.....	
15. Plaint or memorandum of appeal in a suit to obtain a declaratory decree in respect of an under-proprietary tenure in the Province of Oudh.	.....	
16. Undertaking under the Indian Divorce Act, section 49.	.....	

* *Note.*—Provided that the proper fee to be paid upon the deposit, in any Court in the territories for the time being under the government of the Lieutenant-Governor of Bengal, of rent not exceeding the sum of fifteen rupees, shall be as follows:—

If the amount deposited does not exceed two rupees eight annas ... One anna.

If the amount deposited exceeds two rupees eight annas but does not exceed five rupees ... ... Two annas.

If the amount deposited exceeds five rupees but does not exceed ten rupees ... ... Four annas.

If the amount deposited exceeds ten rupees but does not exceed fifteen rupees ... ... Six annas.

SCHEDULE V—*continued.*

FIXED FEES—*continued.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
17. Application in writing not otherwise provided for by this Act.	(*a*).—When presented to any Court other than a High Court, or to a Collector or any Officer subordinate to a Collector or any Magistrate	Eight annas.
	(*b*).—When presented to any Chief Controlling Revenue or Executive Authority or to a Commissioner	One rupee.
	(*c*).—When presented to any High Court ...	Two rupees.
18. Mukhtárnáma or Wakálatnáma for the conduct of any one case.	(*a*).—When filed in any Court other than a High Court or before any Revenue or Executive Officer other than the Commissioner or Chief Controlling Authority.	Eight annas.
	(*b*).—When filed before a Commissioner ...	One rupee.
	(*c*).—When filed in any High Court or before any Chief Controlling Revenue or Executive Officer	Two rupees.
19. Memorandum of appeal under section 588 of the Civil Procedure Code, 1877, or from any order under any other Act for the time being in force not being a decree or having the force of a decree.	(*a*).—When presented to any Civil Court other than a High Court or any Revenue or Executive Officer other than the Commissioner and Chief Controlling Revenue or Executive Authority ...	Eight annas.
	(*b*).—When presented to any Commissioner ...	One rupee.
	(*c*).—When presented to any High Court or Chief Controlling Revenue or Executive Authority	Two rupees.
20. Summons to compel the attendance of any witness or defendant.*	(*a*).—When issued by a Court subordinate to a District Court or by any Revenue Officer other than a Commissioner or Chief Controlling Revenue Authority or by a Magistrate	Eight annas.
	(*b*).—When issued by a District Court or any Court having ordinary original jurisdiction equal to that of a District Court or a Commissioner	One rupee.
	(*c*).—When issued by a High Court or Chief Controlling Revenue Authority ...	Two rupees.

* *Note.*—The Code of Civil Procedure (section 64) requires the issue of a *separate* summons to each defendant, but in the case of witnesses each summons may include three persons, provided such witnesses all reside in the same town or village or within a distance of three miles from each other.

SCHEDULE V—*concluded.*

FIXED FEES—*concluded.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
21. Warrant of arrest or attachment of property.	(*a*).—When issued by a Court subordinate to a District Court or by any Revenue Officer other than a Commissioner or Chief Controlling Revenue Authority, or by a Magistrate	One rupee.
	(*b*).—When issued by a District Court or any Court having ordinary original jurisdiction equal to that of a District Court, or a Commissioner	Two rupees.
	(*c*).—When issued by a High Court or Chief Controlling Revenue Authority ...	Four rupees.
22. Application under Act No. X of 1859, section 26, or Bengal Act No. VI of 1862, section 9, or Bengal Act No. VIII of 1869, section 37. 23. Caveat. 24. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866. 25. Plaint or memorandum of appeal in a suit (other than a suit or proceeding under the Indian Divorce Act) for the restitution of conjugal rights.	... ...	Five rupees.
26. Plaint or memorandum of appeal in a suit.	(*a*).—To alter or set aside a summary decision or order of any of the civil Courts not established by Letters Patent or of any revenue Court: (*b*).—To alter or cancel any entry in a register of the names of proprietors of revenue-paying estates: (*c*).—To set aside an award: (*d*).—To set aside an adoption: (*e*).—Where it is not possible to estimate at a money-value the subject matter in dispute, and which is not otherwise provided for by the Act.	Ten rupees.
27. Every petition under the Indian Divorce Act except petitions under section 44 of the same Act, and every memorandum of appeal under section 45 of the same Act. 28. Plaint or memorandum of appeal under the Pársí Marriage and Divorce Act, 1865.	... ...	Twenty rupees.

SCHEDULE VI.

EXEMPTIONS FROM COURT-FEES.

1. Application in writing—

(*a*). To a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land, or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.

(*b*). Relating to a supply, for irrigation, of water belonging to Government.

(*c*). For leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagment with Government, land of which the revenue is settled but not permanently.

(*d*). For service of notice of relinquishment of land or of enhancement of rent.

(*e*). By a witness for the return of a document filed by him in obedience to a summons.

(*f*). Containing any charge or information respecting any offence, when presented, made or laid to or before a Police-officer, or to or before the Heads of Villages or the Village-police in the territories respectively subject to the Governors in Council of Madras and Bombay.

(*g*). For permission to cut timber in Government forests, or otherwise relating to such forests.

(*h*). For compensation under any law for the time being in force relating to the acquisition of property for public purposes.

(*i*). Relating exclusively to the purchase of salt, the property of Government.

(*j*). For the payment of money admitted to be due by Government to the applicant.

2. Authority in writing to an agent to distrain.

3. Bail-bonds in criminal cases, and recognizances to prosecute or give evidence, or for personal appearance or otherwise.

4. Complaint by a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a Railway Company.

5. Copies—

a. Of any document required for public purposes the fee chargeable on which but for this exemption would be paid by Government.

(*b*). Of final sentences or orders passed by criminal Courts, which parties desirous of appealing from such sentences or orders are required by section 273 of the Code of Criminal Procedure to file with their petition of appeal: provided that the party who is desirous of appealing is in confinement under the operation of the sentence or order at the time that he applies for a copy of the same.

Of the judgment, or reasons for passing or making such sentence or order as above.

c). Of the judgment or order given by a criminal Court under section 464 of the Code of Criminal Procedure, to the accused person or person affected by such judgment or order: provided that such person is in jail, or the Court for some special reason sees fit to give such copy free of cost.

d). Of village-settlement-records furnished to landholders and cultivators during the currency or at the termination of settlement-operations.

SCHEDULE VI—*concluded.*

EXEMPTIONS FROM COURT-FEES—*concluded.*

List of fields extracted from village-settlement-records for the purpose of being filed with petitions of plaint in settlement Courts.

(*e*). Of awards and agreements under any law for the time being in force relating to the acquisition of property for public purposes furnished to persons claiming under such awards or agreements.

Nothing in this number applies to—

(1). Copies of judicial proceedings, or

(2). Copies of village settlement-records other than the list aforesaid filed in any Court or Office.

6. Declarations mentioned in section 118 and section 164 of the Code of Civil Procedure.

7. First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.

8. Petitions—

(*a*). by a prisoner or other person in duress or under restraint of any Court or its officers;

(*b*). of appeal against the chaukídárí assessment under Act No. XX of 1856, or against any municipal tax;

(*c*). presented to the Special Commissioner appointed under Bengal Act No. II of 1869 (*to ascertain, regulate and record certain tenures in Chutiá Nágpur*);

(*d*). under the Christian Marriage Act, sections 45 and 48;

(*e*). of appeal presented to Revenue-officers in accordance with section 55 of the Madras Act No. IV of 1871;

(*f*). or applications, memoranda of appeal and the proceedings under the Oudh Taluqdárs Relief Act, the Broach and Kaira Incumbered Estates Act, and Bombay Act No. VI of 1862.

9. Plaints—

(*a*). presented to a Military Court of Requests, and petition for execution of a decree of such Court;

(*b*). in suits tried by Village Munsifs in the Presidency of Fort St. George;

(*c*). and processes in suits before District Panchâyats in the same Presidency;

(*d*). in suits before Collectors under Madras Regulation XII of 1816 and Madras Act No. VIII of 1865.

10. Power-of-attorney to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of Her Majesty's army whilst serving in such capacity.

11. Probate of a will, letters of administration and certificate mentioned in the fourth Schedule No. 12, where the amount or value of the property in respect of which the probate, letters, or certificate shall be granted does not exceed one thousand rupees.

12. Written statements called for by the Court after the first hearing of a suit.

SCHEDULE VII.

ACTS REPEALED.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1847 ...	Copyright	In section five, the words "without being subject to any stamp or duty."
XXXI of 1860 ...	Arms Act	In section eight, the words "and shall be engrossed upon a stamp-paper of the value of ten rupees. The stamp-paper shall be furnished by the person applying for the license."
XX of 1865 ...	Pleaders	Sections ten and twenty-two.
XVIII of 1869 ...	The General Stamp Act ...	The whole.
VII of 1870 ...	The Court Fees Act ...	The whole.
XX of 1870 ...	Amending Act VII of 1870...	The whole
XXIV of 1870 ...	Oudh Talukdárs Relief Act...	Section twenty-four.
II of 1874 ...	Administrator General's Act...	In section thirty-one, the words "bearing a stamp of ten rupees and."
XIII of 1875 ...	Probates and Letters of Administration	Section six.

STATEMENT OF OBJECTS AND REASONS.

The provisions of the law relating to stamp-duties and Court-fees are now contained in six different Acts, and numerous orders of the Governor General in Council notified from time to time in the Government Gazette during the last seven years. It is desirable for the convenience of the public to bring these provisions within the compass of a single enactment, and it is proposed to take this opportunity to introduce measures for the improved working of the law, which experience has shown to be much needed, and at the same time to provide for the acquisition of a moderate increase of revenue from stamp-duties.

2. Such increase is to be obtained partly by the amendment of those provisions of the law which are specially designed to protect the revenue from loss through evasion of the payment of the proper stamp-duty, and partly by the enhancement of the present rates of duty in certain cases.

3. There is reason to believe that the obligation of stamping documents at the time of their execution is at present largely evaded. Prosecutions for such evasion are rarely resorted to, and the criminal penalties provided by the existing law may be said to be almost inoperative, so that frauds upon the revenue are systematically practised in the belief that the worst result to be apprehended from their detection is the levy of a fine of a certain fixed amount, in addition to the unpaid duty. The most important object to be kept in view consequently in the framing of a new Stamp Bill is to stop, as far as may be practicable, every hole of escape from the liability which the law imposes upon the executant of instruments subject to stamp-duty.

4. The new preventive provisions are contained in sections 30, 31, 33, 35 and 37, and their main object is to secure the proper scrutiny of instruments liable to stamp-duty when produced by their possessors, and the effective working of the criminal penalty-clauses as a deterrent to wilful evasions.

5. It has been shown that, in the present state of the law, the obligation to see that all documents produced in Courts and public offices are properly stamped is generally ignored unless and until the parties producing them desire to put the documents in evidence. It is not an uncommon thing for persons to produce documents improperly stamped, and on being told that they will have to pay a specified amount by way of penalty, to withdraw the documents and forego putting them in evidence; and in such cases they are allowed to escape punishment

for the offence which they have committed in not stamping or sufficiently stamping their instruments, and which is not the less an offence against the law and punishable as such, whether they wish to use the instrument or not.

6. Further, where the presiding Judge or officer does take cognizance of the omission to use a proper stamp, some difficulty is found in securing the due punishment of the offender owing to the obscure and somewhat conflicting provisions of the existing law as to the constitution of an "offence." Whilst, on the one hand, the criminal penalty is declared to be incurred upon the mere fact of under-stamping, on the other the provisions relating to the procedure to be followed on the production of unstamped documents deal prominently with the question of intention on the part of the producer, and the Courts generally ignore the presumption of fraudulent intention in the absence of proof of the existence of such intention. As such proof is not forthcoming, the producer of the instrument almost invariably escapes, mulcted only in the civil penalty which the Court is empowered to levy at its own discretion and without reference to other authority.

7. To meet this state of things, it is provided in section 30 of the Bill that every Court and head of an office shall take notice of and examine all instruments produced before them, that they shall determine whether the instrument is properly stamped, and, if not, shall impound it. Section 31 provides for dealing with an impounded instrument which is required to be put in evidence, so that there may be no obstruction to the administration of justice, whilst section 33, amongst other things, provides that this detention of the document and levy of a validating fine in the form of additional duty shall in no case protect the person responsible for the under-stamping from the criminal penalties to which his offence renders him liable. Section 35 prescribes the course to be followed by the Collector when under-stamped documents or copies thereof come into his hands, and section 36 determines the effect of the realization of the deficient duty as regards the validity of the instrument, and provides for the ultimate disposal of the latter—according as a criminal prosecution may or may not be undertaken.

8. Section 37 contains an entirely new provision and one that seems likely to stimulate the production of instruments liable to stamp-duty and not properly stamped.

It frequently happens that the person interested in putting in evidence an insufficiently stamped document was not bound by law to bear the expense of the stamp that should have been used at the time of its execution, yet he has to bear the penalty incurred through the laches of the actual defaulter. As a consequence of this state of the law, the person interested in producing the document is often deterred from so doing by the consideration of the penalty. In such cases it cannot be doubted that production will be greatly facilitated by the provisions of this section which enable the producer to throw the cost of producing the unstamped or improperly stamped document upon another person.

9. Important changes are proposed in regard to some of the instruments chargeable with *ad valorem* duties specified in the first Schedule, namely, Bills of Exchange payable otherwise than on demand, Bonds, Conveyances, Policies of Insurance and other instruments such as Promissory Notes, Leases and Mortgage-deeds which are subject to the same duties as Bills of Exchange, Bonds and Conveyances respectively.

10. Under the present law all Bonds and Conveyances in which the amount secured, or consideration stated, ranges between Rs. 50 and Rs. 10,000, and other instruments similarly chargeable, are subject to rates of stamp-duty equivalent to 1 and ½ per cent., respectively, on the maximum amount of each step in the scale of ascents by which the assessment is regulated. So far, with one exception only, to be presently stated, the sliding scale of rates of stamp-duty follow the plan of the English stamp law, but the tax is as much heavier in proportion in this country as the rupee, half rupee, quarter rupee and one anna respectively exceed in value the shilling, its half and quarter, and one penny. The exception adverted to is that, whereas in the English scale of ascents there is no intermediate step between £100 and £200 or £200 and £300, and so on, in the Indian stamp law the ascents between Rs. 1,000 and Rs. 10,000 are by steps of Rs. 500.

11. When the amount involved in the instrument chargeable with stamp-duty exceeds Rs. 10,000, the percentage of charge is, by the present stamp law in this country, diminished as the amount upon which the duty is assessed increases; whereas under the English law the same proportion of charge is maintained throughout, whatever may be the amount of the subject-matter of the instrument liable to stamp-duty.

12. The rates of stamp-duty also charged on Bills of Exchange and Promissory Notes other than those payable on demand are, relatively to the duties chargeable on Bonds and Conveyances under the Indian stamp law, lower than the English rates. For, whilst the stamp law in England imposes on Conveyances, Bonds and Bills of Exchange the duty of 12*d*., 6*d*. and about 1½*d*. for every £10, here the rates on those three classes of instruments are 16 annas, 8 annas and about 1 anna for every Rs. 100 respectively.

13. The principle of the changes now proposed may be said to be the equalisation of the existing rates of percentage of duty upon the amount taxed and their adjustment to the English standard—the rupee and its halves and quarters being taken as the equivalent of the shilling and its halves and quarters respectively, and the anna as equal to the penny.

14. Some increase also in regard to the duty leviable on documents of certain amounts above Rs. 1,000 but below Rs. 10,000 is involved in the proposed conversion of the intermediate steps between those amounts from Rs. 500 to Rs. 1,000, for the purpose of bringing the Indian, into precise conformity with the English, scale of ascents.

15. The minimum rate of stamp-duty now payable in the case of Bonds is to be omitted. It is thought that all instruments of this class—however low may be the amount involved—can without any hardship bear a four annas tax; whilst so comparatively numerous are the Bonds or other instruments of obligation in respect of amounts not exceeding twenty-five rupees that the additional rate of two annas to which it is proposed to subject them is likely to produce a material increase of revenue.

16. It is proposed to include Policies of Insurance on life in the general class of instruments of insurance liable to stamp-duty, and to double the existing rates of charge on these instruments generally; this change is in fact nothing more than a reversion to the rates chargeable on these documents previously to the passing of the Stamp Act of 1869. Then there was no exception in favour of Life Policies; and instruments of insurance generally were charged at the rate of 8 annas per Rs. 1,000 of the amount insured.

17. Instruments guaranteeing the repayment of loans made upon the deposit of valuable securities are by the present law subjected to a small fixed duty of two rupees only, without reference to the amount of the loan or the extent of the accommodation obtained through the transaction. It seems more equitable and consistent with the general principles which govern the determination of stamp-duties that these instruments should be taxed according to the amount involved in the transaction; hence it is proposed to substitute an *ad valorem* for a fixed duty, and, having regard to the short period for which the loan is granted, to assess the new duty at one-half of the rate applicable to Bills of Exchange.

18. The Bill provides also for the revival of the rule, in regard to the duty leviable on certain promissory notes, which was in force previous to the passing of the Stamp Act of 1869, under which a promissory note made payable at some time exceeding one year from the date of the note was liable to the same rate of duty as a Bond. As the obligatory instrument ordinarily executed in this country when loans are taken—the "tamassúk"—is more of the nature of a promissory note than a bond, it seems probable that some unnecessary sacrifice of revenue has resulted from the relinquishment of the former mode of assessment to which it is now proposed to revert in these cases.

19. The limit of amount within which cheques and other orders for the payment of money and receipts are exempted from any stamp-duty is to be reduced from twenty to ten rupees. The payment of one anna stamp-duty can hardly be considered an oppressive tax in such cases, whilst so comparatively numerous are the transactions of this kind involving small amounts, that the abolition of the exemption in respect of sums ranging between twenty and ten rupees is likely to secure a considerable increase of revenue. Further, the Bill aims at the enforcement of the delivery of a receipt for the payment of any amount in excess of ten rupees in satisfaction of a debt. Under the present law a person receiving money in payment of a debt above a certain amount is obliged to grant a receipt to the payer if the latter demands it. This enactment has been found by experience to attain its object but very imperfectly, as the payers are generally too indifferent about the matter to exercise their legal right, and consequently the payee it is believed, in a large number, if not the majority, of cases, escapes his obligation. As the obligation was imposed solely in the interest of the revenue, the principle on which it rests is not overstrained by the provision of the Bill which, upholding the obligation of the payee, dispenses with the antecedent condition for its enforcement.

20. The duty chargeable on instruments evidencing an appraisement or an award is raised by the Bill to about five times its present amount. Before 1869, these documents were not subject to any stamp-duty: the tax then imposed was purely experimental. The increase now proposed still leaves instruments of this description more lightly taxed than they are in England.

21. The Bill substitutes an *ad valorem* rate of duty for the fixed amount now chargeable on Partition-deeds. That amount is Rs. 16 and in some cases proves such a heavy tax that the matter has been made the subject of a reference to Government; an equal charge on all partitions without reference to the value of the property divided must work unsatisfactorily. An *ad valorem* duty is a more equitable form of charge, and the rate has been assimilated to that of bonds, which is one-half of the rate to which ordinary deeds of conveyance are subject.

22. An *ad valorem* charge is also proposed in lieu of a fixed duty for instruments of gift and exchange. All fixed duties are more or less objectionable, as they must either be pitched so low as to bring in no appreciable amount of revenue, or they must press with undue severity in cases in which the property concerned is of inconsiderable value. The difficulty of imposing *ad valorem* duties in these cases arises out of the want of a safe basis for their assessment, there being no consideration expressed in the instruments to be charged. It is proposed to surmount this difficulty by imposing on the parties the obligation of stating truly—under heavy penalties for fraudulent statements—the approximate value of the subject of the deed of gift or exchange.

23. The stamp-duties heretofore chargeable on pleaders' and múkhtars' certificates under the Pleader's Act are included in the Bill as part of the scheme of consolidation. It seems only just and consistent that advocates and attorneys should be similarly taxed in respect of the practice of their profession in the Courts of this country, and it is proposed to subject them to the payment of five hundred rupees, and two hundred and fifty rupees stamp-duty, respectively, on their enrolment as advocates and attorneys of a High Court. The members of the faculty practising in the Courts of England, Ireland and Scotland are somewhat similarly taxed in respect of such practice.

24. The only changes in the rates of Court-fees contemplated by the Bill are (1) in respect of suits instituted in the Courts of Small Causes, (2) the grant of probates of wills and letters of administration, and (3) the fees leviable for the service of processes.

25. The new rates for Small Cause Court suits involve a decrease of 2½ per cent. in the case of suits of this class instituted in the Presidency Towns, and a proportionate increase of the rates heretofore obtaining in such Courts situated outside those towns.

The present rates in the Presidency Towns are 2 annas per rupee or 12½ per cent. Elsewhere they are the same as in other Courts, namely, 7½ per cent. on the average amount involved in the suit. The town rate is clearly too high and some relief is called for. This, it is thought, may be

unobjectionably given by the application of the equalisation principle; and the enhancement of the rate heretofore levied in the Mufassal Small Cause Court is defensible on the ground that, as the judicial agency and general machinery of these Courts is more costly than those of the ordinary Civil Courts, whilst a complete determination of the matter in dispute is obtained in the one class of Courts and not in the other, equitable considerations admit of a higher rate of charge upon the litigants in the former case than in the latter.

26. Up to 1870 no stamp-duty was charged on Letters of Administration to the effects of deceased persons or Probates of Wills. The rate of duty then fixed was tentative and expressly declared to be subject to revision on the occasion of the next amendment of the law on the subject; it is now proposed to increase it from two, to two and a half per centum.

27. The fees now chargeable for the service of processes issuing from the Civil, Revenue and Criminal Courts are fixed by rules framed by the High Courts. It is proposed to substitute for this procedure the fixed rates specified under Nos. 20 and 21 of the fifth schedule of the Bill, and to discontinue the provisions of the existing law for the regulation of the process-serving establishments.

The experience gained through the working of the present system, as to the actual cost of serving processes, renders possible the determination of the amount of the fee required in the case of each kind of process to cover the cost of its service; and it seems desirable not only that the Court-fees of this class should, like all other fees leviable under the Court-fees Act, be fixed by the Act itself, but that the regulation of the establishments to be maintained for the service of processes should be under the exclusive control of the Executive authorities.

28. It is often asserted that the provisions of the stamp law are so complicated as to be ill-understood by the public generally, and on this ground a disposition has been shown sometimes on the part of the administrators of the law to excuse, or take a very lenient view of, non-compliance with its requirements; the Bill has been framed therefore with the special endeavour to render the requirements of the law generally intelligible, by large additions to the interpretation-clauses, improved arrangement of its provisions and a simpler classification of the contents of the schedules.

29. The other alterations of the existing law contained in the Bill relate chiefly to matters of detail or procedure, are of minor importance, and do not appear to call for any special explanation.

SIMLA;
The 25th September 1877.

F. R. COCKERELL.
A. PHILLIPS,
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 10th October 1877, and was referred to a Select Committee :—

No. 17 OF 1877.

A Bill to enable the District Judges of the Presidency of Fort Saint George to suspend and remove certain ministerial officers, and for other purposes.

Whereas it is expedient to empower the District Judges of the Presidency of Fort Saint George to suspend and remove ministerial officers of the Courts of Subordinate Judges and District Munsifs; and whereas it is also expedient to provide for the transfer of ministerial officers from one Court to another; It is hereby enacted as follows:— Preamble.

1. For section 23 of the Madras Civil Courts Act, 1873, the following shall be substituted (that is to say)— Amendment of Act III of 1873, section 23.

"23. The ministerial officers of the Courts of the Subordinate Judges and District Munsifs shall be appointed by such Subordinate Judges and District Munsifs, respectively, subject to the approval or confirmation of the District Judge within whose jurisdiction such Courts are situate, and may be suspended or removed from office either by the said District Judge or (subject to his approval or confirmation) by such Subordinate Judges and District Munsifs respectively." Appointment and removal of ministerial officers of subordinate Courts.

2. After section 24 of the same Act, the following section shall be inserted :— Addition after section 24 of Act III of 1873.

"24 A. The Local Government may, at the instance of the District Judge, transfer from any Court, except the High Court, to any other Court, except the High Court, all or any of the ministerial officers of the Court of such Judge, or of any Subordinate Judge or District Munsif under his control. Transfer of ministerial officers.

"The District Judge may transfer all or any of the ministerial officers of any Court under his control to any other such Court."

STATEMENT OF OBJECTS AND REASONS.

The Madras Government and the Madras High Court desire that the District Judges should have the power of suspending or removing ministerial officers of the Courts of the Subordinate Judges and District Munsifs in addition to the power which they now possess under Act III of 1873, section 23, of approving and confirming those officers. The first section of the Bill is intended to effect this object.

Powers, resembling those conferred by Act VI of 1871, section 37, are also given to transfer ministerial officers from one Court to another.

SIMLA;
The 19th September 1877.

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

[First publication.]

The following preliminary 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 10th October 1877 :—

We, the undersigned members of the Select Committee to which the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques was referred, have considered the papers specified in the appendix, and have the honour to present this preliminary report.

2. This Bill, of which a draft, hereinafter called the draft Bill, was prepared by the late Indian Law Commission, is intended to be one of the chapters of the Indian Civil Code, and was introduced and referred to a Select Committee in December 1867. The then mercantile members of Council, while admitting the desirability of codification, objected to the draft Bill on account of its deviations from English law. In order to obviate this objection several alterations have now been made in its substantial provisions. The Bill has also been re-arranged; and some additions have been made in order to supply omissions. These changes, which embody most of the suggestions contained in the papers mentioned in the appendix, will appear in detail from this report.

3. It may, however, be convenient, before proceeding further, to notice briefly the alterations which have been made in order to render the Bill conformable to English law.

4. The draft Bill provided that an indorsee for value after maturity should have only the rights of his indorser. This does not except the case of a bill of exchange drawn or accepted for the purpose of enabling some party thereto to raise money thereon: we have added an exception in section 80 in order to meet this case.

5. The draft Bill discarded days of grace: we have recognised this usage in sections 87 and 88 of the present Bill. The change has involved (in section 22) a slight alteration of the definition of "maturity."

6. The draft Bill also made all instruments which fell due upon a holiday payable on the next succeeding business day instead of, as in English law, on the next preceding business day, except in the case of a public holiday. We have in section 26 adhered to the English law, and have provided that, besides the usual public holidays, such days shall be public holidays within the meaning of the Act as the Local Government may declare.

7. The draft Bill made no provision for the case in which interest at a specified rate is expressly made payable on a note or bill. It merely provided that interest at the current rate should be payable on a bill dishonoured by non-acceptance, but only from the maturity of the instrument. The same rule was adopted in the case of dishonour by non-payment of a note, bill or cheque. We have substituted the English law on this subject by declaring (section 101) that, where interest is expressly provided for in the note or bill, it shall be calculated, as against all parties, at the specified rate from the date of the instrument until tender or realization of the amount due. Where no interest is specified we have declared (section 101), that, except in cases within section 532 of the Civil Procedure Code, interest shall run at six per cent. per annum from the date at which the amount ought to have been paid by the party charged. We have also added an explanation that an indorser can only be charged with such interest from the date of the receipt by him of notice of dishonour.

8. We have restored (section 117) the rule, which the draft Bill omitted, that a notice of dishonour must inform the party to whom it is given that he will be held liable.

9. The draft Bill provided that when a note, bill or cheque had been lost, or would not be produced by the owner, he might nevertheless enforce his claim against the maker or acceptor if he gave security, to the satisfaction of the Court, to indemnify the defendant against the claims of any other person upon the instrument. No provision was made for an action against the indorser. The English law, however, provides (17 & 18 Vict., c. 125, section 87=Act V of 1866, section 14) that, in *any* action upon a negotiable instrument, the loss of it shall not be set up as a defence if an indemnity is given, to the satisfaction of the Court, against the claims of any other person. And the owner of such a document was always entitled in equity to demand payment on giving a sufficient indemnity. We have, therefore, considered that we should correctly embody the English law by providing (section 103) that any person liable to pay and paying the amount due on a note, bill or cheque shall be entitled to be indemnified; and by leaving (section 8) the liability of all parties the same as if the instrument had been forthcoming.

10. The draft Bill extended to instruments payable to order the principle upon which protection is afforded by English law to the party primarily liable upon an instrument payable to bearer. The acceptor, maker or indorser of a negotiable instrument payable to bearer, but not of an instrument payable to order, is, by English law, discharged by payment to any person in possession of the instrument, if the payer has no reason to believe the possessor is not the true holder. We have in section 104, clause (*c*), restricted the protection to such instruments.

11. The Bill as now altered consists of fourteen chapters. In the first chapter we have inserted the usual preliminary matter. We have (section 1) excluded hundís from the operation of the Bill. We have provided (section 2) for the repeal of some enactments which are replaced by the provisions of the Bill.

12. Section 3 contains a definition of the term "banker" drawn from 39 & 40 Vict., c. 80, s. 3, and of "Notary Public." Notaries are seldom found in the Mufassal, and the Bill provides that their functions may be exercised by persons appointed for that purpose by the Governor General in Council.

13. Chapter II deals with notes, bills and cheques, bills in sets and crossed cheques. We have here substituted definitions which appear to be more comprehensive and accurate than those in the draft Bill. For instance, according to the original definitions, a bill of exchange differs from a cheque only in requiring that the money ordered by the instrument to be paid should be held at the disposal of the drawer—a distinction which appears to us inaccurate, as a bill of exchange is in law, equally with a cheque, assumed to be drawn against funds in the hands of the drawee. Again, the definition of a cheque would include such an instrument as a tradesman's bill on which the debtor writes an order to pay for presentation to a cash-keeper—the ordinary mode of paying bills in mercantile houses, at least in Calcutta, and one adopted by many private persons. According to the draft Bill such an instrument would apparently be negotiable—a very serious result indeed. Again, the definition of a cheque does not require that it should be drawn upon a banker or a person acting as such, nor that it should be payable on demand. These are only a few of what seemed to us the more obvious omissions. We have, therefore, framed definitions which we think will include all the essentials of these instruments.

14. Section 8 defines the holder of a promissory note, bill of exchange or cheque as a person entitled in his own name to the possession of it and to receive or recover the amount due thereon from the parties thereto. The holder of an instrument at the time of its loss or destruction also comes within the definition. The corresponding provision of the draft Bill seemed to us vague and unsatisfactory in its definition of "holder," and it was not consistently applied in the substantive provisions of the Bill.

15. In section 15 we have modified the definition of indorsement in the draft Bill by providing that it must be made for the purpose of negotiation. We have also included in the definition a like signature upon a stamped paper intended to be completed as a negotiable instrument.

16. We have added a section (17) providing, in accordance with English law, that, when an instrument may be construed either as a promissory note or bill of exchange, it shall be taken to be that which the holder elects.

17. In section 19 we have supplied an omission in the draft Bill by providing that an instrument in which no time for payment is specified and all cheques are payable on demand.

18. Section 20 provides for the filling up by the holder of blanks in a stamped paper intended to be completed as a negotiable instrument, but not completed when issued. The holder may complete the instrument for any amount covered by the stamp. To this section is added as an illustration section 9 of the draft Bill.

19. To the four presumptions as to negotiable instruments contained in the draft Bill and stated in section 27 of the present Bill, we have added presumptions that an accepted bill was accepted within a reasonable time after date and before maturity; that every bill or note receipted on the back was paid by the acceptor or maker, that is, by the party primarily liable to pay; and that a lost instrument was duly stamped.

20. In addition to the provisions of the draft Bill as to bills in sets, we have (section 29) provided for the right of that holder of one of the parts who first acquires title to his part to possession of the other parts. We have also defined an acceptor in section 7 so as to include an acceptor of a set of bills.

21. In sections 30 to 37 (both inclusive) we have substituted the provisions of the recent English Act (39 & 40 Vict., c. 81) for the sections of the draft Bill relating to crossed cheques.

22. Chapter III deals with the parties to negotiable instruments.

23. Section 38, after providing that all persons capable of contracting may be parties to notes, bills and cheques, adds that a minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

24. Section 39 provides for persons binding themselves through their authorized agents, and adds that a general authority is not sufficient for this purpose, and that an authority to draw a bill does not of itself authorize an indorsement.

25. Sections 41 and 42 provide for the liability of partners on notes, bills and cheques; and section 43 applies the provisions of the Indian Contract Act, sections 42, 43 and 45 and chapter XI, to the rights and liabilities of partners created thereby, as well as to joint rights and liabilities.

26. Section 45 defines the liability of the drawee of a bill or cheque.

27. Section 46 extends to the case of the maker of a note, a definition contained in section 60 of the draft Bill of the liability of the acceptor of a bill of exchange.

28. Section 47 adds to the category of persons who (according to section 61 of the draft Bill) can accept a bill, all or some of several joint drawees.

29. Section 49 provides that every prior party to a negotiable instrument is liable thereon to a holder in due course, that is, to a *bonâ fide* holder for value.

30. Section 50 lays down that the maker of a note or cheque, the drawer of a bill until acceptance, and the acceptor are ordinarily the principal parties to the bill and the other parties their sureties; and section 51 adds that each prior party is a principal as regards the holder, and that the intermediate parties between such prior party and the holder are sureties for him. By section 52 the provisions of the Indian Contract Act, sections 132 to 147 (both inclusive) are rendered applicable to these relations of suretyship.

31. We have added a section (54) estopping the maker of a note, the drawer of a bill or cheque and the acceptor of a bill for the honour of the drawer from denying the original validity of the instrument.

32. Section 55 adopts, with modifications, the provisions of section 117 of the Evidence Act, 1872, and of sections 36 and 62 of the draft Bill, which estop the acceptor from denying

the drawer's signature. The estoppel is, we think, properly confined by this section to suits by holders other than the drawer.

33. Section 56 estops the maker of a note and the acceptor of a bill payable to order from denying the payee's capacity to indorse.

34. Section 57 adds to the estoppel against denying false signatures, contained in section 35 of the draft Bill, an estoppel against denying the capacity to contract of any prior party to a negotiable instrument in suit.

35. Section 58 also carries on the same subject by declaring the acceptor of a bill with a forged indorsement not to be thereby relieved from liability if he knew it to be forged at the time of acceptance; and section 59 declares that the acceptor of a bill drawn in a fictitious name is not thereby relieved from liability to pay upon an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

36. These sections supply some omissions in the draft Bill, and, we think, adequately provide for the due currency of negotiable instruments when once put into circulation and for the protection of their holders.

37. The Bill then goes on to deal with the consideration for negotiable instruments and to protect the holder for value of instruments with respect to which there may have been originally no consideration, or a subsequent failure of consideration, wholly or in part.

38. These sections (60 to 63, both inclusive) are substantially taken from the draft Bill. We have added an illustration to section 62.

39. Chapter IV deals with negotiation.

40. To section 64, which is substantially the same as section 18 of the draft Bill, we have added an explanation to the effect that an instrument delivered upon a condition which has not happened is not negotiable except by a holder for value and without notice of such condition.

41. Where the holder of a note or bill payable to or to the order of a specified person delivers it to another person without indorsing it, but with intent to transfer his title thereto, we think that (with reference to the Code of Civil Procedure, sections 36 and 37) the transferee should not be required to sue in the name of his transferor. We have framed section 66 accordingly.

42. In section 67 we have, in substantial accordance with section 40 of the draft Bill, dealt with the case of a *bonâ fide* holder for value of a bill transferred without indorsement. In such a case we have declared the holder entitled to a return of the consideration if the bill is, after the transfer, avoided on account of any matter prior to the transfer, provided such return is claimed within a reasonable time.

43. Section 71 describes the parties who may indorse and negotiate negotiable instruments. The draft Bill does not appear to provide with sufficient clearness for this matter.

44. Section 76 embodies section 23 of the draft Bill: but it completes that section by enacting that an indorsement of a negotiable instrument for part of the amount due thereon transfers a right to retain the instrument and to receive and recover such part in the name of the indorser.

45. Section 77 provides that no agreement which is not expressed on the instrument or which is collateral thereto shall be binding upon holders for value or those deriving title from such holders. This section embodies and supplements the corresponding provisions of the draft Bill: of which section 42 provided that the title of an indorsee should not be affected by transactions independent of the instrument; and section 99 that a holder in due course should not be affected by any agreement between two signers as to the order of their liability unless such agreement appeared on the face of the instrument. The section as now drawn extends the draft sections to holders for value and to holders deriving title from holders for value; and also extends section 99 to all agreements not expressed on the instrument.

46. Chapter V deals with presentment for acceptance and presentment for payment.

47. Section 82 states the essentials of presentment for acceptance in the case of bills payable at or after sight, to which the draft Bill, section 56, clause (1), refers as bills payable after demand. We have added a provision that presentment must be made by a person entitled to demand acceptance; and we have provided for the case in which the drawee cannot after reasonable search be found, and also for the case of a bill directed to the drawee at a particular place.

48. Section 83 provides for presentment for sight of a promissory note payable at a certain period after sight—a matter unnoticed by the draft Bill.

49. Section 84 alters section 56, clause (3), of the draft Bill by restricting the time allowed to the drawee for deliberation to the departure of the next post, if that should happen within the twenty-four hours otherwise allowed. This is the English rule upon the subject.

50. Sections 85 and 86 lay down the general rule for presentment for payment, which is not distinctly laid down in the draft Bill.

51. Section 87, as to presentment for payment of inland instruments payable after date or sight, embodies section 133 of the draft Bill; but we have excluded cheques from this section; as we have provided (section 19), in accordance with English law, that such instruments are only payable on demand.

52. Section 88 provides for presentment for payment of an inland note payable by instalments—a matter omitted from the draft Bill.

53. Section 90 modifies sections 139 and 140 of the draft Bill by requiring, in accordance with English law, that an instrument drawn or accepted payable at a specified place must,

in order to charge the maker or drawer, be presented for payment at that place. The draft Bill allows presentment to be made in such cases at the place of business or residence of the maker or acceptor.

54. Section 91 embodies the general rule as to the place of presentment.

55. Section 92 extends the rule in section 141 of the draft Bill as to personal presentment to the case of presentment for acceptance.

56. Section 93 taken together with section 105 embodies section 101 of the draft Bill, with the modification that the presentment of a cheque must be made before the relation between the drawer and his banker has been altered to the prejudice of the drawer, or the drawer will be discharged from liability. The draft Bill discharges the drawer only to the extent of his actual loss; but, according to the English cases, he is discharged altogether by such delay, the payee of the cheque being considered as having, by such delay, treated the cheque as payment, and as thereby electing to look to the drawee alone (see *Hopkins* v. *Ware*, L. R. 4 Ex. 268).

57. Section 96 is new. It provides that presentment for acceptance or payment may be made by or to a duly authorized agent, or the representative of a deceased party or the assignee of an insolvent party.

58. Section 98 states the cases in which presentment for payment is excused. It embodies sections 89 and 91 of the draft Bill; and adds the case in which the drawer could not suffer damage by want of presentment; in which case presentment is by English law not necessary as against him.

59. Chapter VI treats of payment and interest. Section 100 declares that payment should be made to the holder, for payment to any other party does not of itself discharge the maker or acceptor. The next two sections, 101 and 102, provide for interest upon notes, bills and cheques, and section 103 for indemnity to the payer of an instrument lost or which cannot be produced.

60. Chapter VII deals with discharge from liability on notes, bills and cheques.

61. Section 104 provides for the discharge of a maker, acceptor or indorser, not only when the holder cancels the acceptor's or indorser's name, and when the maker, acceptor or indorser pays the amount due (sections 38, 85, 87, and 88 of the draft Bill), but also where the holder releases or otherwise discharges the maker, acceptor or indorser.

62. Section 107 adopts the provisions of 16 & 17 Vict., c. 59, section 19 by which the drawer of a cheque payable to order and purporting to be indorsed by or on behalf of the payee is discharged by payment in due course.

63. To section 110, which embodies sections 109 and 110 of the draft Bill, we have added an explanation showing what are material alterations in a negotiable instrument.

64. Section 111 is new, and provides that in special cases, such as that of a blank stamped instrument, an uncrossed cheque and an instrument endorsed in blank, a material alteration made by an indorsee discharges his indorser from liability to him in respect of the consideration as well as of the instrument.

65. Section 113 embodies section 115 of the draft Bill and section 11 of 39 & 40 Vict., c. 81, relating to crossed cheques.

66. Chapter VIII treats of notice of dishonour.

67. Section 116 substantially agrees with sections 125, 127 and 131 of the draft Bill; but we have altered the description of the parties to whom notice of dishonour by non-acceptance or non-payment must be given: the description now adopted is that those parties must include all whom the holder seeks to make severally liable on the instrument, and some one of any parties jointly liable; but notice to the maker, drawee or acceptor is unnecessary.

68. Section 117 collects into one section a number of provisions as to the form of notice and the mode of giving it. These provisions are scattered over sections 126, 127, 128 and 130 of the draft Bill. We have already pointed out that this section differs from the draft Bill in requiring notice to the party addressed that he will be held liable.

69. Section 119 adds to section 132 of the draft Bill the provision that a party receiving notice of dishonour through his agent for presentment is entitled to the same period after such receipt for the purpose of giving notice as the holder has for giving notice.

70. Section 121 describes the cases in which no notice of dishonour is necessary. These cases include, besides those of dispensation by the party entitled to notice and of inability to give the notice (which are provided for in sections 66, 67, 68, 92 and 93 of the draft Bill), the case of the drawer countermanding payment; the case where the party charged could not suffer from want of such notice; the case of an acceptor who is also a drawer; the case of a promissory note which is not negotiable, and the case in which the party knowing the facts unconditionally promises to pay the amount due on the instrument.

71. Chapter IX contains the rules for noting and protest.

72. Section 122 substantially corresponds with section 119 of the draft Bill; but it allows the noting to be made either upon the instrument, or upon a paper attached thereto, or partly upon each. And the rules as to noting and protest are confined to bills and notes, whereas the draft Bill extended them to cheques—an extension for which there is apparently no authority.

73. We have inserted in sections 123 and 124 provisions regarding protest for better security.

74. In section 126 we have reproduced the provisions of Act VI of 1840, section 4, and of 2 & 3 Wm. 4, c. 98, as to protest for non-payment after dishonour by non-acceptance.

75. Chapter X contains rules for calculating the reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting. We have added in section 129 a provision that, in the case of notice of dishonour, when the parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

76. Chapter XI deals with acceptance and payment for honour. We provide (section 131) for the case of protest for better security. In accordance with a recent case (*In re Overend, Gurney and Company*, L. R. 6 Eq. 344), we have declared (section 136) that the payer for honour shall have all the rights, in respect of the bill, of the holder at the time of such payment.

77. Chapter XII, which treats of compensation, retains (section 137) the provisions of the draft Bill (section 65) substantially unaltered.

78. Chapter XIII treats of foreign bills and restricts to foreign bills the section (73) of the draft Bill, which deals with the dishonour of a bill naming a drawee in case of need.

79. The provisions of chapter XIV as to international law are substantially those of the draft Bill.

80. In conclusion, we desire to express our obligations to the following honourable and learned Judges, namely, Messrs. Turner, Kennedy, West and Nánábhái Haridás: to the Madras Chamber of Commerce: to Mr. Stewart Gladstone, Mr. R. Stewart, Mr. Dickson (late Secretary and Treasurer to the Bank of Bengal), and Mr. Scrymgeour, the Calcutta Agent of the Oriental Bank Corporation. We recommend that the Bill as now altered be republished in the *Gazette of India* and the local Gazettes, that the opinions of the Local Governments, the High Courts and the mercantile community be invited thereon, and that its further consideration be stayed till the Council re-assembles in Calcutta.

SIMLA;
The 4th October 1877.

WHITLEY STOKES.
E. C. BAYLEY.
F. R. COCKERELL.

APPENDIX.

From Secretary to Government of India, Financial Department, No. 2833, dated 3rd December 1867.

„ Chairman, Chamber of Commerce, Madras, dated 22nd October 1867.

„ Registrar, High Court, North-Western Provinces, No. 2541, dated 22nd November 1867.

Remarks by Secretary and Treasurer, Bank of Bengal.

From Junior Secretary to Government of Bengal, No. 4601, dated 30th December 1867, and enclosures.

„ First Assistant Resident, Haidarábád, No. 47, dated 12th December 1867, and enclosures.

„ Assistant Secretary to Government of Bengal, Legislative Department, No. 3, dated 14th January 1868.

„ Officiating Head Commissioner of Paper Currency, No. 388, dated 9th December 1867, and enclosures.

„ Secretary to Chief Commissioner, British Burma, No. 214—221, dated 21st January 1868, and enclosure.

„ Secretary to Government, North-Western Provinces, No. 284, dated 18th March 1868, and enclosures.

„ Under Secretary to Government, Bombay, No. 767, dated 13th March 1868, and enclosures.

„ Commissioner, Mysore, No. 7036—239, dated 11th March 1868, and enclosures.

„ Chief Secretary to Government, Madras, No. 1089, dated 9th July 1868, and enclosures.

Note by Edward Gay, Esq., dated 16th December 1867.

From Chief Commissioner, Oudh, No. 4396, dated 10th October 1868, and enclosures.

„ Secretary to Government, Panjáb, No. 1518, dated 20th November 1868, and enclosure.

„ Secretary to Government, Panjáb, No. 1582, dated 8th December 1868, and enclosure.

„ Bábu Piyári Chand Mittra, dated 6th January 1869.

„ Acting Under Secretary to Government, Bombay, No. 398, dated 4th February 1869, and enclosures.

„ Agents and Managers of certain Banks in Calcutta.

„ Acting Secretary to Government, Madras, No. 1198, dated 22nd July 1869, and enclosures.

„ Managers and Agents of certain Joint Stock Banks, Bombay, dated 21st October 1869.

No. II.

THE NEGOTIABLE INSTRUMENTS BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

4. Promissory Note.
5. Bill of Exchange.
6. Cheque.
7. Drawer, Drawee, Acceptor, Payee.
8. Holder.
9. Holder in due course.
10. Payment in due course.
11. Inland instrument.
12. Foreign instrument.
13. Negotiable instrument.
14. Negotiation.
15. Indorsement.
16. Indorsement in blank and in full.
    Indorsee.
17. Ambiguous instruments.
18. Amount stated differently in figures and words.
19. Instruments payable on demand.
20. Blank stamped instruments.
21. Subscribing to alternative liability.
22. Maturity.
23. At sight.
    After sight.
24. Date on which bill or note payable so many months after date or sight, or after a certain event, is at maturity.
25. Date on which bill or note payable so many days after date or sight, or after a certain event, is at maturity.
26. When day of maturity is a holiday.
27. Presumptions as to negotiable instruments.

Bills in sets.

28. Set of bills.
29. Holder of first acquired part entitled to all.

Crossed Cheques.

SECTIONS.

30. Cheque crossed generally.
31. Cheque crossed specially.
32. Crossing after issue.
33. Payment of cheque crossed generally.
    Payment of cheque crossed specially.
34. Payment of cheque crossed specially more than once.
35. Payment in due course of crossed cheque.
36. Payment of crossed cheque out of due course.
37. Cheque bearing "not negotiable."

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

38. Capacity to make, &c., promissory notes, &c.
    Minor.
39. Agency.
40. Liability of agent signing.
41. Acceptance by several drawees not partners.
42. When partnership bound by promissory notes, &c.
43. Partnership and joint rights and liabilities.
    Suretyship.
44. Liability of drawer.
45. Liability of drawee.
46. Liability of maker of note and acceptor of bill.
47. Only drawee can be acceptor except in need or for honour.
48. Liability of indorser.
49. Liability of prior parties to holder in due course.
50. Maker, drawer and acceptor principals.
51. Prior party a principal in respect of each subsequent party.
52. Suretyship.
53. Discharge of indorser's liability.
54. Estoppel against denying original validity of instrument.
55. Estoppel against denying drawer's signature.
56. Estoppel against denying capacity of payee to indorse.
57. Estoppel against denying signature or capacity of prior party.
58. Acceptor bound although indorsement forged.
59. Acceptance of bill drawn in fictitious name.
60. Party receiving consideration liable to subsequent parties.
61. Party not liable to one from whom no consideration moved.
62. Partial absence or failure of money-consideration.
63. Partial failure of consideration not consisting of money.

CHAPTER IV.

OF NEGOTIATION.

SECTIONS.

64. Negotiation by delivery.
65. Negotiation by indorsement.
66. Transfer without indorsement.
67. Liability of transferor without indorsement.
68. Conversion of indorsement in blank into indorsement in full.
69. Effect of indorsement.
70. Negotiability may be restricted or excluded.
71. Who may negotiate.
72. Indorser who excludes his own liability or makes it conditional.
73. Holder deriving title from holder in due course.
74. Instrument indorsed in blank.
75. Conversion of indorsement in blank into indorsement in full.
76. Indorsement for part of sum due.
77. Collateral agreements.
78. Legal representative cannot by delivery only negotiate instrument indorsed by deceased.
79. Instrument obtained by unlawful means or for illegal consideration.
80. Instrument acquired after dishonour or when overdue.
    Accommodation note or bill.
81. Instrument negotiable till payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

82. Presentment for acceptance.
83. Presentment of promissory note for sight.
84. Drawee's time for deliberation.
85. Presentment for payment.
86. Hours for presentment.
87. Presentment for payment of inland instrument payable after date or sight.
88. Presentment for payment of inland promissory note payable by instalments.
89. Presentment for payment of instrument payable at specified place and not elsewhere.
90. Instrument payable at specified place.
91. Presentment where no exclusive place specified.
92. Presentment when maker, &c., has no known place of business or residence.
93. Presentment of cheque to charge drawer.
94. Presentment of cheque to charge any other person.
95. Presentment of instrument payable on demand.

SECTIONS.

96. Presentment by or to agent, representative of deceased, or assignee of insolvent.
97. Posting instruments to be presented.
98. When presentment unnecessary.
99. Liability of banker for negligently dealing with bill presented for acceptance.

CHAPTER VI.

OF PAYMENT AND INTEREST.

100. To whom payment should be made.
101. Interest when rate specified.
102. Interest when no rate specified.
103. Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

104. Discharge from liability:
     by cancellation:
     by release:
     by payment.
105. Discharge by allowing drawee more than twenty-four hours to accept.
106. When cheque not duly presented and drawer damaged thereby.
107. Cheque payable to order.
108. Parties not consenting discharged by conditional or limited acceptance.
109. Alteration by stranger in note or bill.
110. Effect of material alteration.
111. Alteration by indorsee.
112. Acceptor or indorser bound notwithstanding previous alteration.
113. Payment of instrument on which alteration is not apparent.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

114. Dishonour by non-acceptance.
115. Dishonour by non-payment.
116. By and to whom notice should be given.
117. Mode in which notice may be given.
118. Party receiving must transmit notice of dishonour.
119. Agent for presentment.
120. When party to whom notice given is dead.
121. When notice of dishonour is unnecessary.

CHAPTER IX.

OF NOTING AND PROTEST.

122. Noting.
123. Protest.
     Protest for better security.

SECTIONS.
124. Contents of protest.
125. Notice of protest.
126. Protest for non-payment after dishonour by non-acceptance.

CHAPTER X.
OF REASONABLE TIME.
127. Reasonable time.
128. Reasonable time for presentment.
129. Reasonable time for giving notice of dishonour.
130. Reasonable time for transmitting such notice.

CHAPTER XI.
OF ACCEPTANCE AND PAYMENT FOR HONOUR.
131. Acceptance for honour.
132. Acceptance not specifying for whose honour it is made.
133. Liability of acceptor for honour.
134. When acceptor for honour may be charged.
135. Payment for honour.
136. Right of payer for honour.

CHAPTER XII.
OF COMPENSATION.
137. Rules as to compensation.

CHAPTER XIII.
OF FOREIGN BILLS.
138. Drawee in case of need.
139. Protest of foreign bills.

CHAPTER XIV.
OF INTERNATIONAL LAW.
140. Law governing liability of maker, acceptor or indorser of foreign instrument.
141. Law of place of payment governs dishonour.
142. Instrument made, &c., out of British India, but in accordance with its law.
143. Presumption as to foreign law.

SCHEDULE.

A Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

Preamble. Whereas it is expedient to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. **1.** This Act may be called "The Negotiable Instruments Act, 1877:"

Local extent. It extends to the whole of British India; but nothing in this Act applies to hundis;

Commencement. And it shall come into force on the first day of May, 1878.

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 thereof.

Interpretation-clause. **3.** In this Act—

"Banker." "Banker" includes persons or a corporation or company acting as bankers, and

"Notary Public." "Notary Public" includes also any officer appointed by the Governor General in Council to perform the functions of a Notary Public under this Act.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

Promissory Note. **4.** A promissory note is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a person ascertainable when such undertaking is made, or to the bearer of the instrument.

Illustrations.

A signs instruments in the following terms:—

(*a*) "I promise to pay B or order Rs. 500."

(*b*) "I promise to account with B or order for Rs. 500 value received by me."

(*c*) "I acknowledge myself to be indebted to B in Rs. 1,000, to be paid on demand, for value received."

(*d*) "Mr. B, I O U Rs. 1,000."

The instruments respectively marked (*a*), (*b*) and (*c*) are promissory notes. The instrument marked (*d*) is not a promissory note.

Bill of exchange. **5.** A bill of exchange is an instrument in writing (not being a cheque) containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a person ascertainable when such order is given or to the bearer of the instrument.

Cheque. **6.** A cheque is an instrument in writing, containing an unconditional order, signed by the maker, directing a specified banker to pay a certain sum of money only to, or to the order of, a person ascertainable when such order is given, or to the bearer thereof.

"Drawer." "Drawee." **7.** The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee."

"Drawee in case of need." When the bill gives the name of any person in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Acceptor." After the drawee of a bill has signed his assent upon the bill, or if there are more parts thereof than one, upon one of such parts, and delivered the same, or

given notice of such signing, to the holder or to some person on his behalf, he is called the "acceptor."

"Acceptor for honour." When acceptance is refused and the bill is protested for non-acceptance, and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Payee." The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Holder." **8.** The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

"Holder in due course." **9.** "Holder in due course" means any person who became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable to, or to the order of, a payee, for valuable consideration before the amount mentioned in it became payable, and without having reason to believe that any defect existed in the title of the person from whom he derived his title.

"Payment in due course." **10.** "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that such person is not entitled to receive payment of the amount therein mentioned.

Inland instrument. **11.** A promissory note, bill of exchange or cheque drawn or made in British India, and made payable in, or drawn upon any person resident in, British India shall be deemed to be an inland instrument.

Foreign instrument. **12.** Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

"Negotiable instrument." **13.** A "negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to, or to the order of, a specified person, or to " or order," or to the bearer thereof.

Negotiation. **14.** When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

Indorsement. **15.** When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

"Indorsement "in blank" and "in full." **16.** If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the whole or any part of the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full;" and the person so specified is called the "indorsee" of the instrument.

"Indorsee."

Ambiguous instruments. **17.** Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

Where amount is stated differently in figures and words. **18.** If the amount promised or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount promised or ordered to be paid.

Instruments payable on demand. **19.** A promissory note or bill of exchange, in which no time for payment is specified, and a cheque are payable on demand.

Blank stamped instruments. **20.** Where a stamped paper, which is intended to be completed as a negotiable instrument, is signed and delivered by a competent person as maker, drawer, acceptor or indorser, the holder thereof may complete the same by filling up any blanks therein, and the person so signing shall be liable upon such instrument, in the capacity in which he signed the same, for any amount which may be specified therein not exceeding the amount covered by the stamp thereon.

Illustration.

A stamped paper intended to be completed as a negotiable instrument is made payable to " or order:" the holder of such instrument may fill up the blank with his own name, or that of any other person.

Subscribing to alternative liability. **21.** Where a promissory note is signed by two persons, and it appears on the face of it that one of them subscribes only to an alternative liability, such one is not liable on the note as maker, but is liable as guaranteeing its payment by the maker.

"Maturity." **22.** The maturity of a promissory note, bill of exchange or cheque is the date at which it is payable.

"At sight." "After sight." **23.** In a promissory note or bill of exchange the expression "at sight" means on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and in a bill of exchange, after acceptance or protest for non-acceptance.

Date on which bill or note payable so many months after date or sight, or after a certain event, is at maturity. **24.** In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument

is dated or presented for acceptance or sight or the event happens. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations.

(*a*) A negotiable instrument dated 1st February is made payable at one month after date. The instrument is at maturity on the 1st of March.

(*b*) A negotiable instrument dated 29th January 1877 is made payable at one month after date. The instrument is at maturity on the 28th February 1877.

(*c*) A negotiable instrument dated 30th August 1877 is made payable three months after date. The instrument is at maturity on the 30th November 1877.

(*d*) A promissory note or bill of exchange, dated 31st August 1877, is made payable three months after date. The instrument is at maturity on the 30th November 1877.

25. In calculating the date at which a promissory note or bill of exchange, made payable a certain number of days after date or after sight or after a certain event, is at maturity, the day of the date, or of presentment for acceptance or sight, or on which the event happens, shall be excluded.

Date on which bill or note payable so many days after date or sight, or after a certain event, is at maturity.

26. When the day on which a promissory note, bill of exchange or cheque is at maturity is not a business day, the instrument shall be deemed to be due on the next preceding business day; but if the day of maturity is a public holiday, then on the next succeeding business day.

When day of maturity is a holiday.

Explanation.—The expression "public holiday" includes Sundays: New-Year's day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good-Friday; and any other day declared by the Local Government, by notification in the official Gazette, to be a public holiday within the meaning of this Act.

27. Until the contrary is proved, the following presumptions shall be made:—

Presumptions as to negotiable instruments;

(*a*) that every negotiable instrument was made, drawn, accepted, indorsed, negotiated and transferred for valuable consideration:

of valuable consideration;

(*b*) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity:

as to time of acceptance;

(*c*) that every transfer of a negotiable instrument was made before its maturity:

as to time of transfer;

(*d*) that every promissory note or bill of exchange receipted on the back was paid by the maker or acceptor thereof respectively:

as to payment;

(*e*) that the holder of a negotiable instrument is a holder in due course:

that holder is a holder in due course;

(*f*) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon:

as to order of indorsements;

(*g*) that a lost bill of exchange, promissory note or cheque was duly stamped.

as to stamp.

Bills in Sets.

28. Bill of exchange may be drawn in parts, each part being numbered and containing a condition that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Set of bills.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he is liable on each part as if it were a separate bill.

29. That holder of one of the parts, who first acquired title to his part, is entitled to the other parts of the same set.

Holder of first acquired part entitled to all.

Crossed Cheques.

30. Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed generally.

31. Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Cheque crossed specially.

32. Where a cheque is uncrossed, the holder may cross it generally or specially.

Crossing after issue.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection.

33. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed generally.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of cheque crossed specially.

34. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment of cheque crossed specially more than once.

35. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all

Payment in due course of crossed cheque.

respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

36. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same shall be crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Payment of crossed cheque out of due course.

37. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Cheque bearing "not negotiable."

But a banker who has in good faith and without negligence received payment from a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

38. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Capacity to make, &c., promissory notes, &c.

A minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

Minor.

39. Every person capable of binding himself or of being bound as in the last preceding section mentioned, may so bind himself or be bound by a duly authorized agent acting in his name.

Agency.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

40. An agent who signs his name to a promissory note, bill of exchange or cheque, without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who know that he signed as agent, or that he had no such intention.

Liability of agent signing.

41. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

Acceptance by several drawees not partners.

42. When it is within the scope of the business of a partnership to make, draw, accept, indorse or negotiate promissory notes, bills of exchange or cheques, any partner may bind his firm by making, drawing, accepting, indorsing or negotiating such instruments in the name of his firm, but not otherwise.

When partnership bound by promissory notes, &c.

Exception.—A partner may bind his firm by accepting in his own name, for partnership purposes, a bill drawn upon the firm.

43. In the absence of a contract to the contrary, the provisions of the Indian Contract Act, 1872, sections 42, 43 and 45, and those of chapter XI of the same Act shall respectively apply to all joint rights and liabilities created by promissory notes, bills of exchange and cheques, and to the rights and liabilities thereon of partners.

Partnership and joint rights and liabilities.

44. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder for any loss or damage caused thereby, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

Liability of drawer.

45. The drawee of a bill of exchange or cheque, having sufficient funds of the drawer in his hands properly applicable to the payment of such bill or cheque, must accept the bill or pay the cheque when duly required so to do, and, in default of such acceptance or payment, must compensate the drawer for any loss or damage caused by such default.

Liability of drawee.

46. Except as provided in sections 38, 61, 62, 63, 79, 85, 89, 90, 104 and 109, and in the absence of a contract to the contrary,—

Liability of maker of note and acceptor of bill.

(*a*) the maker of a promissory note and the acceptor before maturity of a bill of exchange, are bound to pay the amount thereof according to the apparent tenor of the note or acceptance respectively, and

(*b*) the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party thereto for any loss or damage sustained by him, and caused by such default.

47. No person except the drawee of a bill of exchange, or all or some of several joint drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Only drawee can be acceptor except in need or for honour.

48. Except as provided in sections 38, 61, 62, 63, 75, 76, 79, 82, 83, 85, 89, 93, 104, 105, 106, 108, 109, 110 and 121, clause (*a*), and in the absence of a contract to the contrary, every person who indorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or

Liability of indorser.

damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Every indorser after dishonour is liable as upon an instrument payable on demand.

Liability of prior parties to holder in due course.

49. Every prior party to a negotiable instrument is liable thereon to a holder in due course.

Maker, drawer and acceptor principals.

50. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, as between themselves and any other parties thereto, in the absence of any contract to the contrary between themselves and such parties, liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for them.

Prior party a principal in respect of each subsequent party.

51. Every prior party to a negotiable instrument is, as between himself and the holder thereof, in the absence of any contract to the contrary between himself and the holder, liable thereon as a principal debtor, and the parties thereto, subsequent to him and prior to such holder, are liable to the holder as sureties for such prior party.

Illustration.

A draws a bill on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

Suretyship.

52. The provisions of sections 132 to 147, both inclusive, of the Indian Contract Act, 1872, shall apply to the relations of suretyship between parties to negotiable instruments.

Discharge of indorser's liability.

53 The indorser of a negotiable instrument is not discharged from his liability thereupon by the holder having merely forborne to sue a prior party; but where the holder, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Illustration.

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank :—

First indorsement, "John De Souza."
Second indorsement, "Peter Williams."
Third indorsement, "Wright and Co."
Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out the indorsements by Peter Williams and Wright and Co. A is not entitled to recover anything from John Rozario.

Estoppel against denying original validity of instrument.

54. No maker of a promissory note and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon, be permitted to deny the validity of the instrument as originally made or drawn.

Estoppel against denying drawer's signature.

55. No acceptor of a bill of exchange shall, in a suit thereon by a holder other than the drawer, be permitted to deny that the bill was drawn by the person by whom it purports to have been drawn.

Estoppel against denying capacity of payee to indorse.

56. No maker of a promissory note and no acceptor of a bill of exchange payable to, or to the order of, a specified person shall, in a suit thereon, be permitted to deny the capacity of the payee thereof to indorse the same.

Estoppel against denying signature or capacity of prior party.

57. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

Acceptor bound although indorsement forged.

58. An acceptor of a bill of exchange is not relieved from liability, by reason that an indorsement thereon is forged, if he knew or had reason to believe such indorsement to be forged when he accepted the bill.

Acceptance of bill drawn in fictitious name.

59. An acceptor of a bill of exchange drawn in a fictitious name is not, by reason that such name is fictitious, relieved from liability to any holder claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

Party receiving consideration liable to subsequent parties.

60. If at any time there has been valuable consideration between any parties to a negotiable instrument for the making, drawing, acceptance, indorsement, negotiation or transfer thereof, the party receiving such consideration is, except as provided in sections 38, 62, 63, 75, 82, 83, 85, 89, 90, 93, 104, 105, 106, 107, 108, 109, 110 and 111, and in the absence of any contract to the contrary, liable upon the instrument to all subsequent parties thereto, and every subsequent holder is a holder for consideration.

Illustrations.

(*a*) A indorses a bill of exchange to B, at the request of C, for C's account with B. B is a holder of the bill for consideration, and if he indorses it as a present to D, D is a holder for consideration.

(*b*) A, the holder of a negotiable instrument, indorses it in full to B, in the belief that B has done something which he has not done. B, for consideration, indorses the instrument in blank to C, and C indorses it to D. D is a holder of the instrument for consideration.

(*c*) A, the holder of a negotiable instrument indorses it in full to B, in the belief that B has done something which he has not done. B, for consideration proceeding from C, indorses the instrument in blank to C, and C indorses it to D. D strikes out C's indorsement. D is a holder of the instrument for consideration.

Party not liable to one from whom no consideration moved.

61. When there was no consideration for the making, drawing, acceptance or indorsement of a negotiable instrument, or when the consideration has wholly failed, the maker, drawer, acceptor or indorser is not liable thereon to the party in whose favour the instrument was so made, drawn, accepted or indorsed, or to any party claiming through such party, unless valuable consideration moved from the claimant or from some party through whom he derives title. But the maker, drawer, acceptor or indorser is liable to compensate any subsequent party who, being liable on such instrument, pays the amount due thereon.

Partial absence or failure of money-consideration.

62. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque, stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration.

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

Partial failure of consideration not consisting of money.

63. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is readily ascertainable in money, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him, is proportionally reduced.

CHAPTER IV.

OF NEGOTIATION.

Negotiation by delivery.

64. Subject to the provisions of section 79, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Exception.—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice) unless such event happens.

Illustrations.

(*a.*) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(*b.*) A, the holder of a negotiable instrument payable to bearer which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

Negotiation by indorsement.

65. Subject to the provisions of section 79, a promissory note, bill of exchange or cheque payable to, or to the order of, a specified person is negotiable by the holder by indorsement and delivery thereof.

Transfer without indorsement.

66. If the holder of such an instrument as in the last preceding section mentioned, delivers it to another person without indorsing it, but with intent to transfer his title thereto, the transferee acquires by such delivery all the rights which the transferor had as holder except the right of negotiation, and he may sue upon the instrument in his own name.

Liability of transferor without indorsement.

67. If such transfer, as in the last preceding section mentioned, is made for valuable consideration to a person having no reason to believe in the existence of any matter affecting the validity of the instrument or of the transfer thereof, and the instrument is thereafter avoided as against any party on account of matters prior to such transfer, the transferor is bound to return to the transferee the consideration received, provided that such return is claimed within a reasonable time.

Conversion of indorsement in blank into indorsement in full.

68. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

Effect of indorsement.

69. The indorsement of a negotiable instrument transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, be restrained to a transfer of the property without such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

Negotiability may be restricted or excluded.

70. The indorser of a negotiable instrument may, by express words in the indorsement, restrict or exclude the right of the indorsee to negotiate the instrument, although the instrument was, at the time of such words being written, payable to the bearer thereof.

Illustrations.

B signs the following indorsements on different negotiable instruments :—

(*a*) "Pay the contents to C only."

(*b*) "Pay C for my use."

(*c*) "Pay C or order for the account of B."

(*d*) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

(*e*) "Pay C."

(*f*) "Pay C value in account with the Oriental Bank."

(*g*) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not exclude the right of further negotiation by C.

Who may negotiate.

71. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded, as in the last preceding section mentioned, indorse and negotiate the same.

Explanation.—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration.

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order," or any equivalent words. B may negotiate the instrument.

72. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon, depend upon the happening of a specified event, although such event may never happen.

Indorser who excludes his own liability or makes it conditional.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations.

(*a*.) The indorser of a negotiable instrument signs his name, adding the words—

"Without recourse to me."

Upon this indorsement he incurs no liability.

(*b*.) A, the payee and holder of a bill of exchange, indorses it to B, and B to C. C then indorses it back to A, each of these indorsements being in due course. A is reinstated in his former rights upon the instrument, but has not acquired any rights against B or C.

(*c*.) A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

73. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Holder deriving title from holder in due course.

74. A negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Instrument indorsed in blank.

75. If a negotiable instrument after having been indorsed in blank is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Conversion of indorsement in blank into indorsement in full.

76. Where a negotiable instrument is indorsed for part of the sum due thereon to the indorser, the indorsement transfers only a right to retain the instrument, and to receive or sue for such part in the name of the indorser.

Indorsement for part of sum due.

77. No agreement between any parties to a negotiable instrument which is not expressed thereon, or which is collateral thereto, is binding upon any other holder thereof for valuable consideration, or upon any holder deriving title from a holder for valuable consideration.

Collateral agreements.

Illustration.

A person who is a creditor of A signs, as acceptor, a bill of exchange in A's favour for 3,000 rupees. A being the holder indorses it for value to B, who is aware that the acceptor was a creditor of A. A's debt to the acceptor cannot be set off against B's claim on the bill.

78. The legal representative of a deceased person cannot negotiate by delivery a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

Legal representative cannot by delivery only negotiate instrument indorsed by deceased.

79. When a negotiable instrument has been lost, or has been obtained from any maker, acceptor or holder thereof by unlawful means, or for an illegal consideration, no possessor or indorsee, who claims through the person who so obtained the instrument, is entitled to receive the amount due thereon from such maker, acceptor or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

Instrument obtained by unlawful means or for illegal consideration.

80. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only the rights thereon of his transferor:

Instrument acquired after dishonour or when overdue.

Provided that any person who, in good faith and for valuable consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Accommodation note or bill.

Illustration.

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

81. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

Instrument negotiable till payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

82. A bill of exchange payable at or after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment for acceptance.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he has absconded, the bill is dishonoured.

83. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight, by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment

Presentment of promissory note for sight.

no party thereto is liable thereon to the person making such default.

84. The drawee of a bill of exchange presented to him for acceptance may retain the same until the end of twenty-four hours, or until the next post to the holder, whichever first happens, to consider whether he will accept it.

Drawee's time for deliberation.

Explanation.—In calculating the twenty-four hours mentioned in this section, days which are not business days shall be excluded.

85. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Presentment for payment.

Exception.—No presentment is necessary of a promissory note payable on demand in order to charge the maker thereof.

86. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Hours for presentment.

87. An inland promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment within three days after the end of such period.

Presentment for payment of inland instrument payable after date or sight.

88. An inland promissory note payable by instalments must be presented for payment within three days after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Presentment for payment of inland promissory note payable by instalments.

89. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party, thereto, be presented for payment at that place.

Presentment for payment of instrument payable at specified place and not elsewhere.

90. A promissory note or bill of exchange made drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Instrument payable at specified place.

91. A promissory note or bill of exchange, not made payable as in the last two preceding sections mentioned, must be presented for payment at one of the places specified (if any), or at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be.

Presentment where no exclusive place specified.

92. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment when maker, &c., has no known place of business or residence.

93. A cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn within a reasonable time after it was first received from the drawer, or before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Presentment of cheque to charge drawer.

94. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after receipt thereof from such person.

Presentment of cheque to charge any other person.

95. A negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Presentment of instrument payable on demand.

96. Presentment for acceptance or payment may be made by or to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or where he has died, to his legal representative, or where he has been declared an insolvent, to his assignee.

Presentment by or to agent, representative of deceased, or assignee of insolvent.

97. When the holder of a promissory note, bill of exchange or cheque, and the maker, acceptor or drawee reside in different places, the instrument may be forwarded by post for the purpose of being presented for payment. In such case, when there is a daily post, the instrument must be posted at some time not later than the last post on the day following that on which the holder has received such instrument; and the person receiving such instrument by the post must present it not later than the day following its receipt; where there is not a daily post, the instrument must be forwarded and presented within a reasonable time.

Posting instruments to be presented.

98. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:—

When presentment unnecessary.

(*a*) if the maker, drawee or acceptor closes his place of business,

or cannot after reasonable search be found,

or intentionally prevents the presentment of the instrument,

or access to him cannot be obtained during business hours;

(*b*) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment;

(*c*) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

99. When a bill of exchange, accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently keeps,

Liability of banker for negligently dealing with bill presented for acceptance.

deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

CHAPTER VI.

OF PAYMENT AND INTEREST.

100. Subject to the provisions of section 104, clause (*c*), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

To whom payment should be made.

101. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount and from the date of the instrument, until tender or realization of the amount due thereon.

Interest when rate specified.

102. When no rate of interest is specified in the instrument, interest on the amount thereof shall, except in cases provided for by the Code of Civil Procedure, section 532, be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon.

Interest when no rate specified.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

103. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

104. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

Discharge from liability;

(*a*) to a holder thereof cancelling such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;

by cancellation;

(*b*) to a holder thereof otherwise discharging such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;

by release;

(*c*) to all parties thereto, if the instrument is payable to bearer, and such maker, acceptor or indorser pays in due course the amount due thereon.

by payment.

105. If the holder of a bill of exchange allows the drawee more than twenty-four hours to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

Discharge by allowing drawee more than twenty-four hours to accept.

106. When a cheque has not been duly presented for payment, and the drawer thereof has thereby sustained loss or damage, he is discharged from liability to the holder making default in presentment.

When cheque not duly presented and drawer damaged thereby.

107. Where a cheque, payable to order, purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Cheque payable to order.

108. If the holder of a bill of exchange acquiesces in a conditional acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which is not signed by all the drawees (not being partners), all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him.

Parties not consenting discharged by conditional or limited acceptance.

109. Alterations made in a promissory note or bill of exchange by a person not a party to such note or bill have no effect upon the liability of a party who signed the instrument as maker or acceptor before such alterations were made.

Alterations by stranger in note or bill.

110. Save as provided in sections 20, 32, 68 and 108, any material alteration of a negotiable instrument renders the same void as against any party thereto at the time, and not consenting to such alteration, unless such alteration was made in order to carry out the common intention of the original parties.

Effect of material alteration.

Explanation.—The following are material alterations within the meaning of this section, namely: an alteration of date, amount, or of time or place of payment; the insertion in the body of the instrument of words authorising the transfer thereof, or stating the value thereof to have been received on a particular account; the addition of a name as that of a maker or drawer; obliteration of, addition to, or alteration of, the crossing of a cheque.

111. Save as last aforesaid, any such alteration as in the last preceding section mentioned, if made by an indorsee, discharges his indorser from all liability to him in respect of the instrument or the consideration thereof.

Alteration by indorsee.

112. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Acceptor or indorser bound notwithstanding previous alteration.

113. Where a promissory note, bill of exchange or cheque has been materially altered, but does not appear to have been so altered, or where a cheque has been crossed but does not appear to have been crossed, payment thereof by a person or banker liable to pay and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker so paying from all liability thereon, and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

Payment of instrument on which alteration is not apparent.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

114. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill.

Dishonour by non-acceptance.

115. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill, or drawee of the cheque makes default in payment upon being duly required to pay the same.

Dishonour by non-payment.

116. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

By and to whom notice should be given.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note, or the drawee or acceptor of the dishonoured bill of exchange or cheque.

117. Notice of dishonour may be given by or to a duly authorised agent of the person by or to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business, or (in case such party has no place of business) at the residence, of the party for whom it is intended.

Mode in which notice may be given.

If the notice is sent by post and miscarries, such miscarriage does not render the notice invalid.

118. Any party receiving notice of dishonour must, in order to charge any prior party, transmit it to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 116.

Party receiving must transmit notice of dishonour.

119. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

Agent for presentment.

120. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

When party to whom notice given is dead.

121. No notice of dishonour is necessary—

When notice of dishonour is unnecessary.

(*a*) when it is dispensed with by the party entitled thereto;

(*b*) in order to charge the drawer, when he has countermanded payment;

(*c*) when the party charged could not suffer damage from want of notice;

(*d*) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;

(*e*) to charge the drawers, when the acceptor is also a drawer;

(*f*) in the case of a promissory note which is not negotiable;

(*g*) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

CHAPTER IX.

OF NOTING AND PROTEST.

122. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument or upon a paper attached thereto, or partly upon each.

Noting.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if not expressly dishonoured, the reason why the holder treats the instrument as dishonoured, and the notary's charges.

123. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such fact to be noted and certified by a notary public. Such certificate is called a protest and shall, in the absence of proof to the contrary, in a suit upon the instrument, be deemed evidence of the fact of dishonour.

Protest.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

Protest for better security.

124. A protest under section 123 must contain—

Contents of protest.

(*a*) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;

(*b*) the name of the person for whom and against whom the instrument has been protested;

(*c*) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public, the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;

(*d*) when the note or bill has been dishonoured, the place and time of dishonour, and when better security has been refused, the place and time of refusal;

(*e*) the subscription of the notary public making the protest;

(*f*) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

Notice of protest.

125. When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

Protest for non-payment after dishonour by non-acceptance.

126. All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before maturity.

CHAPTER X.

OF REASONABLE TIME.

Reasonable time.

127. In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and in calculating such time, days which are not business days shall be excluded.

Reasonable time for presentment.

128. Presentment is made within a reasonable time, within the meaning of sections 82, 93, 94 and 95, if it is made on the business day next after that on which the holder received the bill, negotiable instrument or cheque referred to, or when there is no more delay than is occasioned by the residence of the parties to the bill, negotiable instrument or cheque in different places.

Illustration.

A draws on B, resident at Calcutta, a bill of exchange in favour of C payable at sight, and sends it to C at Benares. C, the day after he receives it, indorses it to D, and despatches it to D at Calcutta. D, the day after he receives the bill, presents it for payment. The delay which has taken place in presenting the bill is not unreasonable.

Reasonable time for giving notice of dishonour.

129. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

Reasonable time for transmitting such notice.

130. A party receiving notice of dishonour transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

CHAPTER XI.

OF ACCEPTANCE AND PAYMENT FOR HONOUR.

Acceptance for honour.

131. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

Acceptance not specifying for whose honour it is made.

132. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

Liability of acceptor for honour.

133. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not; and such party, and all prior parties, are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

When acceptor for honour may be charged.

134. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment and has been dishonoured by him, and noted or protested for such dishonour.

Payment for honour.

135. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

Right of payer for honour.

136. Any person so paying, as in the last preceding section provided, is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

CHAPTER XII.

OF COMPENSATION.

Rules as to compensation.

137. The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall (except in cases provided for by the Code of Civil Procedure, section 532) be determined by the following rules:—

(*a*) The holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it;

(*b*) When the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;

(*c*) An indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment;

(*d*) When the person charged and the indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;

(*e*) The party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII.

OF FOREIGN BILLS.

Drawee in case of need.

138. Where a drawee in case of need is named in a foreign bill of exchange, the bill is not dishonoured until dishonoured by such drawee.

Protest of foreign bills.

139. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

CHAPTER XIV.

OF INTERNATIONAL LAW.

Law governing liability of maker, acceptor or indorser of foreign instrument.

140. In the absence of a contract to the contrary, the liability of the maker of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument: the liability of the acceptor, by the law of the place where he accepted the instrument: the liability of the indorser, by the law of the place where he indorsed the instrument.

Illustration.

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is endorsed in British India, and is dishonoured. An action on the bill is brought against B in British India. He is liable to pay interest at the rate of 6 per cent. only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

Law of place of payment governs dishonour.

141. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Illustration.

A bill of exchange drawn and indorsed in British India, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Instrument made, &c., out of British India, but in accordance with its law.

142. If a negotiable instrument is made, drawn, accepted, or indorsed out of British India, but in accordance with the law of British India, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or endorsement made thereon in British India.

Presumption as to foreign law.

143. Until the contrary is proved, the law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of British India.

SCHEDULE.

No. and year.	Title.	Extent of repeal.
VI of 1840 ...	An Act for the amendment of the law concerning the negotiation of Bills of Exchange.	The whole.
V of 1866 ...	An Act to amend in certain respects the Commercial Law of British India.	Sections 11, 12 and 13.
I of 1872 ...	Indian Evidence Act.	Section 117, so far as relates to bills of exchange.
XV of 1874 ...	Laws local extent	So much of the first Schedule as relates to Act VI of 1840 and to Act V of 1866, ss. 11, 12 and 13.

A. PHILLIPS,

Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 20, 1877. { Register No. 53.

☞ 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 10th October 1877:—

No. 16 OF 1877.

THE STAMP BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Extent of Act.
   Commencement of Act.
2. Repeal of enactments.
3. Interpretation-clause.
4. Rule of construction.

CHAPTER II.

STAMP-DUTIES AND COURT-FEES CHARGEABLE UNDER THIS ACT.

5. All duties to be paid according to the regulations of this Act.
6. Schedules to be read as part of Act.
7. Use of appropriated stamps.

CHAPTER III.

STAMP-DUTIES ON INSTRUMENTS.

SECTIONS.

8. Scheduled duties chargeable.
9. Instruments executed in British India.
   Instruments executed out of British India.
10. How instruments are to be written and stamped.
11. Stock and marketable securities to be valued.
12. Effect of statement of value.
13. Denoting stamp.
14. Use of adhesive stamps.
15. Duties by whom payable.
16. Bills of exchange chargeable with duty.
17. Stamping bills drawn out of British India.
18. Power of banker in case of bills, notes and cheques received by him unstamped.
    Saving of liability for issuing bill, &c., unstamped.
19. Foreign bill unstamped or with stamp uncancelled.
20. Instruments reserving interest.
21. Consideration expressed in certain foreign currencies.
22. Valuation of money in other foreign or colonial currency for levy of duty.
23. Optional stamps where value of subject-matter is indeterminate.
24. Amount on which duty leviable in case of bond, &c., for payment of annuity.
25. Amount on which duty leviable where consideration is an annuity.

SECTIONS.
26. Amount on which duty leviable in case of lease where no term is expressed.
27. Several instruments used in single transaction.
28. Instruments coming within two or more of the definitions in section 3.
Instruments conveying several subject-matters.
29. Consideration to be stated.
Mortgage-money to be deemed purchase-money.

CHAPTER IV.

UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

30. Instruments produced in Court to be examined.
31. Instruments not duly stamped inadmissible in evidence.
32. Admission in criminal cases of documents for which proper fee has not been paid.
33. Procedure as to instruments impounded under section 30, and not received in evidence.
34. Impounding unstamped instruments in public office.
35. Powers of Collector as to unstamped or insufficiently stamped instruments other than bills and notes.
Certificate.
36. Endorsement of instruments on which duty has been paid under section 31 or 35.
37. Right of person paying duty under section 31 or 35 when he is not bound to provide stamp.
38. Instruments chargeable with one anna duty.
39. Non-liability for loss of instruments sent under section 18, 33 or 34.
40. Procedure where receipts are required.
41. Stamping unstamped receipts.
42. Cancellation of adhesive stamps.

CHAPTER V.

ADJUDICATION OF DOUBTS AS TO STAMPS.

43. Adjudication of doubt as to proper stamp.
44. Payments under section 43 how made.

CHAPTER VI.

REFERENCE AND REVISION.

45. Reference to High Court.
46. Procedure where Collector entertains doubt as to duty chargeable.
47. Procedure where Court entertains doubt as to duty on instrument.
48. Revision of certificates and orders.

CHAPTER VII.

FEES IN THE CHARTERED HIGH COURTS.

49. Levy of fees in High Courts on their original sides.
SECTIONS.
50. Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction.
In their appellate jurisdiction.
As Courts of reference and revision.
51. Procedure in case of difference as to necessity or amount of fee.
52. Saving of fees to certain officers of High Court.

CHAPTER VIII.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

53. Fees on documents filed, &c., in Mufassal Courts or in public offices.
54. Power to stamp document inadvertently received.
55. Amended document.
56. Computation of fees payable in certain suits.
i—for money:
ii—for maintenance and annuities:
iii—for other moveable property having a market-value:
iv—for moveable property of no market-value:
to enforce a right to share in joint family property:
for a declaratory decree:
for an injunction:
for easements:
for accounts:
v—for possession of lands, houses and gardens:
Proviso as to Bombay Presidency:
for houses and gardens:
vi—to enforce a right of pre-emption:
vii—for interest of assignee of land-revenue:
viii—to set aside an attachment:
ix—to redeem:
to foreclose:
x—for specific performance:
xi—between landlord and tenant.
57. Fees in certain suits by Government ryots in Madras.
58. Fee on memorandum of appeal against order relating to compensation.
59. Power to ascertain nett profits or market-value.
60. Procedure where nett profits or market-value wrongly estimated.
61. Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.
62. Decision of questions as to valuation.
63. Additional fee where respondent takes objection to unappealed part of decree.
64. Multifarious suits.
65. Cancellation of stamps.
66. Written examinations of complainants.
67. Repayment of fees paid on applications to criminal Courts.

CHAPTER IX.

PROBATES, LETTERS OF ADMINISTRATION, AND CERTIFICATES OF ADMINISTRATION.

SECTIONS.
68. Relief where too high a court-fee has been paid on probate or letters of administration.
69. Relief where debts due from a deceased person have been paid out of his estate.
70. Relief in case of several grants.
71. Probates declared valid as to trust property though not covered by court-fee.
72. Provision for case where too low a court-fee has been paid on probates, &c.
73. Administrator to give proper security before letters stamped under section 79.
74. Executors, &c., not paying full court-fee on probates, &c., within six months after discovery of underpayment.
75. Collector to deliver or pay stamp or amount directed by Court.
76. This chapter applied to certificates under Acts XL of 1858, XXVII of 1860 and XX of 1864.

CHAPTER X.

REFUNDS.

77. Allowance for spoiled stamps.
78. Allowance for misused stamps.
79. Allowance how to be made.
80. Repurchase of stamps not wanted.
81. Refund of fee paid on memorandum of appeal.
82. Refund of fee on application for review of judgment.
83. Refund where Court reverses or modifies its former decision on ground of mistake.
84. Refund where plaint rejected for merely technical defect.
85. Remission of additional duty levied under section 31.

CHAPTER XI.

CRIMINAL PENALTIES.

86. Penalty for executing instrument on paper not duly stamped.
87. Penalty for presenting, &c., unstamped foreign bills or notes.
88. Refusal to give receipt.
89. Penalty for failure to cancel such stamps.
90. Penalty for not drawing full number of bills or marine policies purporting to be in sets.
91. Penalty for not stating consideration.
92. Penalty on attorneys, &c., not inserting true consideration.
93. Fraudulent removal, sale, &c., of adhesive stamps.
94. Penalty for stamp-vendor disobeying rules.
95. Reward to informers.
96. Institution and conduct of prosecution.
97. Magistrates having jurisdiction.

CHAPTER XII.

MISCELLANEOUS.

SECTIONS.
98. Employment of single impressed stamp.
99. Employment of several stamped papers.
100. Power to reduce or remit rates of stamp-duty.
101. Power to make subsidiary rules.
Approval and publication of rules.

SCHEDULES.

I. AD VALOREM STAMP-DUTIES.
II. FIXED STAMP-DUTIES.
III. EXEMPTIONS FROM STAMP-DUTY.
IV. AD VALOREM COURT-FEES.
V. FIXED FEES.
VI. EXEMPTIONS FROM COURT-FEES.
VII. ACTS REPEALED.

A Bill to consolidate and amend the law relating to Stamps and Court-fees.

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Stamp Act, 1878:"

Extent of Act. It extends to the whole of British India;

Commencement of Act. And it shall come into force on the *first* day of July 1878.

Repeal of enactments. 2. On and after that day, the Acts specified in the seventh schedule shall be repealed to the extent specified in the third column of the same schedule. But all rules framed 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. And all exemptions granted under any such Act and then in force shall be deemed to have been granted under this Act. And all references made to the General Stamp Act, 1869, or to the Court-Fees Act, 1870, shall be deemed to be made to this Act.

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

"Affidavit." (1.) "Affidavit" means a declaration in writing, on oath or affirmation, made before a person authorized by law to administer an oath:

"Award." (2.) "Award" means any decision in writing by an arbitrator or umpire:

"Banker". (3.) "Banker" includes any person acting as a banker:

(4.) "Bill of exchange" includes a hundí and every other instrument (except a cheque) whereby a person is ordered to pay to another a specified sum of money:

"Bill of exchange."

(5.) "Bill of lading" means any instrument signed by the owner of a ship or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver them at a place and to a person therein mentioned or indicated. It includes a cargo receipt:

"Bill of lading."

(6.) "Bond" means any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be:

"Bond."

(7.) "Bottomry-bond" means any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to prosecute her voyage:

"Bottomry-bond."

(8.) "Charter-party" means any instrument (except an agreement for the hire of a tug-steamer) whereby a ship or some principal part thereof is let for the specified purposes of the charterer:

"Charter-party."

(9.) "Cheque" means any instrument whereby a bank or banker is ordered to pay on demand a specified sum of money:

"Cheque."

(10.) "Chief Controlling Revenue Authority" means in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue: in the Presidency of Bombay, a Revenue Commissioner: in the Panjáb, the Financial Commissioner; and elsewhere the Local Government.

"Chief Controlling Revenue Authority."

(11.) "Collector" means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras or Bombay, and without those limits, the Collector of a District, and includes a Deputy Commissioner or any officer having jurisdiction equivalent to that of a Collector of a District:

"Collector."

(12.) "Composition-deed" means any instrument executed by a debtor, whereby the debtor conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors:

"Composition-deed."

(13.) "Conveyance" means any instrument (except a transfer of a share in a Company or Association, a mortgage-deed, a settlement, a lease, an instrument of reconveyance of mortgaged property, a composition-deed, an instrument of gift, or an instrument of exchange or partition-deed, where no money is paid for equality of exchange or partition), by which property is conveyed *inter vivos*. It includes a certificate under the Code of Civil Procedure, section 316, and a sale-certificate granted by a Collector:

"Conveyance."

(14.) "Counterpart" means the duplicate of a conveyance, settlement, mortgage-deed or lease, such duplicate not being executed by the grantor, settlor, mortgagor or lessor, but by some other party to the instrument: it includes a *kabúliyat* in cases where a lease has been granted:

"Counterpart."

(15.) "Delivery-order" means any document or writing entitling, or intended to entitle, any person therein named, or his assigns, or the holder thereof, to the delivery of any goods, wares or merchandise of the value of twenty rupees or upwards, lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such document or writing being signed by or on behalf of the owner of such goods, wares or merchandise, upon the sale or transfer of the property therein:

"Delivery-order."

(16.) "Dock-warrant" means any instrument evidencing the title of any person therein named or his assign, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the company or person in whose custody such goods may be:

"Dock-warrant."

(17.) "Instrument duly stamped" means an instrument chargeable with stamp-duty or a court-fee according to the law in force in British India at the date of its execution and stamped in accordance with such law:

"Instrument duly stamped."

(18.) "Impressed" includes printed and lithographed:

"Impressed."

(19.) "Instrument" includes every written document:

"Instrument."

(20.) "Instrument of apprenticeship" includes every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment, except articles of clerkship to attornies:

"Instrument of apprenticeship."

(21.) "Instrument of divorce" includes every document by which any person purports to effect the dissolution of his marriage.

"Instrument of divorce."

(22.) "Interest" means simple interest:

"Interest."

(23.) "Lease" means any instrument (not being a counterpart) by which one person lets or agrees to let, or takes or agrees to take, property to or from another:

"Lease."

(24.) "Letter of credit" means any instrument by which one person requests another to give credit to the person in whose favour it is drawn:

"Letter of credit."

(25.) "Letter of license" includes every agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion:

"Letter of license."

(26.) "Mortgage-deed" means any instrument evidencing a pledge of immoveable property for securing the payment of money:

"Mortgage-deed."

(27.) "Negotiable instrument" includes bills of exchange, promissory notes and cheques:

"Negotiable instrument."

(28.) "Notarial act" means any instrument, endorsement, note or entry made or signed by a Notary Public in the execution of the duties of his office, and includes every like instrument, endorsement, note or entry made or signed by a consul, attorney, judge, magistrate, or other person acting as a Notary Public:

"Notarial act."

(29.) "Paper" includes vellum, parchment or any other material on which an instrument may be written:

"Paper."

(30.) "Partition-deed" means any instrument whereby persons interested in property, jointly or in common, or as co-parceners, or as members of an undivided family, divide or agree to divide such property in severalty, and includes a *batwárá*:

"Partition-deed."

(31.) "Policy of insurance" means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event: it includes a policy on life:

"Policy of insurance."

(32.) "Power-of-attorney" means any instrument (except a proxy) empowering a person to act in the stead of the person executing it:

"Power-of-attorney."

(33.) "Promissory note" means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight:

"Promissory note."

(34.) "Property" means property being in British India at the time of executing the instrument in which it is comprised:

"Property."

(35.) "Protest" means a declaration in writing made by a Notary Public, or other person authorized to act as such, attesting the dishonour of a bill of exchange or promissory note:

"Protest."

(36.) "Protest of the Master of a ship" means a declaration of the particulars of her voyage, drawn up by him with a view to the adjustment of losses, or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship:

"Protest of the Master of a ship."

(37.) "Proxy" means an instrument whereby a person authorizes another to vote for him at a meeting:

"Proxy."

(38.) "Receipt" means any note, memorandum, writing or advertisement whatsoever, whereby any money or goods, the amount or value of which exceeds ten rupees, or any bill of exchange or promissory note or cheque for money exceeding ten rupees, is acknowledged or expressed to have been received or deposited as paid in satisfaction of a debt, or whereby any debt or demand or any part of a debt or demand exceeding ten rupees is acknowledged to have been settled, satisfied or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person:

"Receipt."

(39.) "Release" means any instrument whereby a person renounces a claim upon another person or against any specified property:

"Release."

(40.) "Respondentia-bond" means an instrument securing a loan on the cargo laden or to be laden on board a ship, and making repayment contingent on the arrival of the cargo at the port of destination:

"Respondentia-bond."

(41.) "Settlement" means any instrument (other than a will) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled: it includes a deed of dower and an assurance for religious or charitable purposes:

"Settlement."

(42.) "Schedule" and "schedules" respectively mean a schedule and schedules to this Act annexed:

"Schedule."

(43.) "Stamp" means as well a stamp impressed by means of a die as an adhesive stamp used under this Act:

"Stamp."

(44.) "Stamp law" used in reference to any instrument means the law relating to stamps in force in British India at the time of its execution: and

"Stamp law."

(45.) "Written" and "writing" includes every mode in which words or figures can be expressed upon paper.

4. The rule of the English common-law that statutes imposing charges on the subject are to be strictly construed has no application to this Act. But its provisions are to be construed so as to give effect to the will of the legislature.

Rule of construction.

CHAPTER II.

STAMP-DUTIES AND COURT-FEES CHARGEABLE UNDER THIS ACT.

5. All stamp-duties and court-fees which may from time to time be chargeable by law in respect of any instruments are to be paid and denoted by means of stamps according to the regulations herein contained, or made under the powers hereinafter conferred.

All duties to be paid according to the regulations of this Act.

6. The schedules and everything therein contained, are to be read and construed as part of this Act.

Schedules to be read as part of Act.

7. A stamp which, by any words on the face of it, or by any rule made under the power hereinafter conferred, is appropriated to any particular description of instrument, is not to be used, or, if used, is not to be available, for an instrument of any other description.

An instrument falling under the particular description to which any stamp is so appropriated

Use of appropriated stamp.

as aforesaid is not to be deemed duly stamped, unless it is stamped with the stamp so appropriated.

CHAPTER III.

STAMP-DUTIES ON INSTRUMENTS.

Scheduled duties chargeable.

8. Subject to the exemptions contained in schedule three and in any other law for the time being in force, for every instrument mentioned in the first and second schedules, and executed in British India on or after the first day of March 1878,

or executed out of British India on or after that day, but relating to, or empowering any person to deal with, any property within British India at the time of execution,

there shall be payable to the Government of India, as stamp-duty, the amount indicated in the said first or second schedule to be the proper duty for such instrument.

Instruments executed in British India.

9. Instruments executed in British India shall be stamped at the time of execution.

Instruments executed out of British India.

Instruments executed out of British India and relating to, or empowering any person to deal with, property within British India at the time of execution shall be stamped within one month after their arrival in British India; and where any such instrument requires to be stamped with an impressed stamp it shall be taken for that purpose to the Collector, who shall on payment of the proper duty stamp the same in the manner directed by the rules under this Act and certify thereon that such duty has been paid.

How instruments are to be written and stamped.

10. Every instrument written upon stamped paper is to be written in such manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument.

Not more than one instrument shall be written upon the same piece of stamped paper.

Stock and marketable securities to be valued.

11. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

Effect of statement of value.

12. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it is, so far as regards the subject-matter of such statement, to be deemed duly stamped, unless or until it is shown that such statement is untrue, and that the instrument is in fact insufficiently stamped.

Denoting stamp.

13. Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty shall, if application be made to the Collector for that purpose, and on production of both the instruments, be denoted in such manner as he thinks fit upon such first-mentioned instrument.

Use of adhesive stamps.

14. The following instruments may (subject to the provisions hereinafter contained) be stamped with adhesive stamps :—

(*a*) instruments chargeable under the second schedule with the duty of one anna;

(*b*) bills of exchange and promissory notes drawn or made out of British India;

(*c*) transfers by endorsement of shares of public companies and associations.

Duties by whom payable.

15. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(*a*) in the case of any instrument mentioned in the first schedule (other than a policy of insurance, a mortgage-deed, a settlement, a conveyance, a lease, an instrument of exchange or partition-deed where money is paid for equality of exchange or partition, an appraisement or valuation, an award and a copy, duplicate or extract) by the person drawing, making or executing such instrument:

(*b*) in the case of a policy of insurance—by the insured:

(*c*) in the case of a settlement—by the settlor:

(*d*) in the case of a conveyance, mortgage-deed or lease—by the grantee, mortgagor or lessee:

(*e*) in the case of a counterpart of a lease—by the lessor:

(*f*) in the case of a partition-deed—by the parties thereto in proportion to their respective shares in the property comprised therein:

(*g*) in the case of an exchange where money is paid for equality of exchange—by the person paying such money: and

(*h*) in the case of an exchange where no such money is paid—by the parties in equal shares.

In the case of an instrument of gift the expense of providing the proper stamp shall be borne by the donor.

Bills of exchange chargeable with duty.

16. The duty imposed by this Act on bills of exchange shall be chargeable

(*a*) on all bills drawn and payable in British India,

(*b*) on all bills drawn in, but payable out of, British India, and

(*c*) on all bills drawn out of, but accepted or paid, or endorsed, transferred, or otherwise negotiated within, British India.

Stamping bills drawn out of British India.

17. The holder of any bill of exchange or promissory note drawn or made out of British India and not stamped as required by this Act, shall, before he presents the same for acceptance or for payment, or endorses, transfers, or otherwise negotiates such bill or note, affix thereto the proper adhesive stamp or stamps required by this Act.

Power of banker in case of bills, notes and cheques received by him unstamped.

18. When any bill of exchange, cheque or promissory note chargeable hereunder with the duty of one anna comes unstamped to the hands of a banker, he may affix thereto the necessary adhesive stamp, and upon so doing, may charge the duty against the person who ought to have paid the same, or deduct such duty from the sum so directed to be paid.

Saving of liability for issuing bill, &c., unstamped.

Such bill, note or cheque shall, so far as relates to the duty chargeable thereon, be valid; but this shall not relieve any person or firm from liability to the penalty which he or it may have incurred by issuing or giving the said bill, note or cheque unstamped.

Foreign bill unstamped or with stamp uncancelled.

19. Subject to the provisions contained in section 18, no person taking a bill of exchange or promissory note drawn or made out of British India and requiring a stamp under this Act, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose, unless at the time when he so takes it, the proper stamp is affixed thereto and cancelled in manner directed by this Act.

Instruments reserving interest.

20. When interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with a duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Consideration expressed in certain foreign currencies.

21. When the consideration set forth in, or the amount secured by, any instrument chargeable under this Act is expressed in pounds sterling, pounds currency, francs or dollars, such consideration or amount shall, for the purposes of this Act, be estimated according to the following scale :—

One pound sterling or pound currency is equivalent to ten rupees:

One hundred francs are equivalent to forty rupees:

One Mexican or China dollar is equivalent to two rupees four annas:

One Mauritius dollar is equivalent to two rupees.

Valuation of money in other foreign or colonial currency for levy of duty.

22. Where an instrument is chargeable with *ad valorem* duty in respect of any money in any other foreign or colonial currency, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

Optional stamps where value of subject-matter is indeterminate.

23. When the amount or value of the subject-matter of any bond, mortgage-deed, settlement, exchange or gift chargeable under this Act with *ad valorem* duty, and referred to or mentioned in section 15 cannot be ascertained, the proper stamp to be borne by such instrument may be determined by the person bound under that section to bear the expense of providing the stamp:

Provided that, under such instrument, nothing shall be recoverable more than the highest amount or value for which, if stated in an instrument of the same denomination, the stamp actually used under such option would have been sufficient.

Amount on which duty leviable in case of bond, &c., for payment of annuity.

24. The whole amount secured for the payment of an annuity, or other sum payable periodically for an indefinite time, by a bond, promissory note, or mortgage-deed shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Amount on which duty leviable where consideration is an annuity.

25. When the consideration for a conveyance is an annuity or other sum payable periodically for an indefinite time, such consideration shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Amount on which duty leviable in case of lease where no term is expressed.

26. In the case of a lease where no term is expressed, the average annual rent payable in respect of the property comprised therein shall, for the purposes of this Act, be deemed to be the average annual rent payable under the lease for the ten years next after it commences.

Several instruments used in single transaction.

27. When more instruments than one are required for the completion of any transaction involving the execution of a mortgage-deed, settlement, conveyance or lease, the proper stamp required by this Act for such mortgage-deed, settlement, conveyance or lease, shall be borne by the principal instrument, whether the several instruments executed in such transaction are executed simultaneously or otherwise, and each of the other instruments shall, for the purposes of this Act, be deemed to be collateral.

The parties may determine for themselves which of such instruments shall, for the purposes of this Act, be deemed to be the principal instrument: Provided that, where the instruments are liable to different rates of duty under this Act, the instrument liable to the highest of such rates shall be deemed to be the principal instrument.

Instruments coming within two or more of the definitions in section 3.

28. An instrument so framed as to come within two or more of the definitions in section three shall, when the instruments to which those definitions apply are liable to different rates of duty under this Act, be charged with the highest of such rates:

Provided that, when any one of such instruments purports, for distinct considerations, to convey by way of sale, to lease, to give or to mortgage two or more subject-matters,

Instruments conveying several subject-matters.

or to convey by way of sale, to lease or to give one subject-matter and to mortgage another,

such instrument shall be chargeable with the aggregate amount of the duties to which instruments effecting separately each of such conveyances, leases, gifts or mortgages would be liable under this Act. But where such instrument is stamped with an insufficient stamp, the value of such stamp may be taken into account in computing the aggregate amount so chargeable.

Consideration to be stated.

29. (*a.*)—When any moveable or immoveable property is sold or is leased in consideration of a fine or premium, the full consideration-money directly or indirectly paid or secured, or agreed to be paid or secured for the same, shall be truly set forth in words at length in the principal or only instrument whereby the property sold or leased is conveyed to, or vested in, the purchaser or lessee or in any other person by his direction.

Mortgage-money to be deemed purchase-money.

(*b.*)—When any property is sold and conveyed subject to any mortgage or bond or other debt, or to any gross or entire sum of money, such debt or sum shall be deemed the consideration-money or part of the consideration-money (as the case may be) in respect whereof the duty chargeable under the first schedule to this Act shall be paid,

notwithstanding the purchaser is not or does not become personally liable for such debt or sum,

or does not agree to pay the same, or to indemnify the seller against the same.

(*c.*)—When one property is exchanged for another, and no money is paid for equality, the value of either property shall be set forth as aforesaid in the instrument of exchange: but where money is paid for equality, the amount so paid and the value of the property least in value shall be set forth as last aforesaid.

(*d.*)—When property is conveyed by way of gift the value of the property shall be set forth as aforesaid in the instrument of gift.

CHAPTER IV.

UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

Instruments produced in Court to be examined.

30. Every Judge and head of a public office before whom any instrument chargeable with stamp-duty under this Act is produced, shall by himself or (in the case of the Judge of a High Court or a District Court) by such officer as the Court appoints in this behalf, examine such instrument in order to ascertain whether the proper stamp-duty has been paid in respect thereof.

If such duty has not been paid in respect of such instrument, such Judge, head or officer, as the case may be, shall impound the same.

Instruments not duly stamped inadmissible in evidence.

31. No instrument chargeable under the first or second schedule shall be received in any Court of justice, or by any person having by law or consent of parties authority to receive evidence, as evidence in any civil proceeding, unless such instrument is duly stamped:

Provided that the Court or person having authority to receive evidence may, on the application of the person producing the instrument or his duly authorized agent, and on payment of the duty with which such instrument is chargeable or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with interest on the amount so paid at the rate of *five* per cent. per annum from the date of the instrument,

and on payment of an additional duty of four times the proper stamp-duty or deficient portion thereof,

receive the instrument in evidence.

Admission in criminal cases of documents for which proper fee has not been paid.

32. Whenever the filing or exhibition in a criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 30 or 31 shall be deemed to prohibit such filing or exhibition except in cases under chapter XL of the Code of Criminal Procedure.

Procedure as to instruments impounded under section 30, and not received in evidence.

33. The Judge or person having authority to receive evidence shall send to the Collector—

(*a*) every instrument impounded under section 30, and not received in evidence;

(*b*) an authenticated copy of every instrument so impounded, which has been received in evidence, together with a certificate in writing, stating the amount levied under section 31 in respect of such instrument.

No instrument impounded under section 30, and received in evidence, shall be returned to the person producing it unless and until the Collector informs the Court that its detention is no longer necessary.

Impounding unstamped instruments in public office.

34. When any instrument is produced before any registering officer, or in any public office other than a civil or criminal Court, if it appear to the registering officer or to the head of such public office that the instrument is not duly stamped, he shall impound the instrument, and (unless he himself be the Collector) send it forthwith to the Collector.

Powers of Collector as to unstamped or insufficiently stamped instruments other than bills and notes.

35. The Collector on receiving any instrument which has been sent to him under section 33 or 34, or which has come into his hands otherwise than for the purpose of obtaining an adjudication under section 43, shall determine the duty (if any) with which the instrument is chargeable.

Certificate.

If it appear to him that the instrument is duly stamped, or that it is not chargeable with stamp-duty under the law in force in British India at the time of its execution, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and he shall thereupon return such instrument to the person by whom it was produced or in whose possession it was found.

If it appears to him that the instrument is not duly stamped, the Collector shall require the person producing it, or in whose possession it has been found, to pay the proper stamp-duty or the amount required to make up the sum together with interest thereon at five per cent. per annum from the date of the instrument, and in case of failure to pay such duty and interest within fifteen days, the Collector may recover the same as if it were an arrear of land-revenue.

The Collector may also prosecute any person who appears to have committed an offence against the stamp law with reference to such instrument, or to any instrument of which an authenticated copy has been sent to him under section 33.

Endorsement of instruments on which duty has been paid under section 31 or 35.

36. When the stamp-duty with which any instrument is chargeable has been paid or recovered under section 31 or section 35, the Judge or the Collector, as the case may be, shall certify by endorsement thereon that the proper stamp-duty has been levied upon it.

Every instrument so endorsed shall be returned on application to the person who produced it, or in whose possession it was found, provided that no instrument in respect of which a prosecution has been instituted shall be so returned until the prosecution has terminated.

Subject to the provision contained in section 48, such certificate shall be conclusive evidence of the amount of stamp-duty leviable on the instrument, which shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

Right of person paying duty under section 31 or 35 when he is not bound to provide stamp.

37. When any duty has been levied under section 31 or section 35 from a person who is not bound under section 15 to provide the proper stamp, he shall be entitled, on production of the certificate mentioned in section 36 in a Civil Court of competent jurisdiction, to a decree against the person so bound under section 15 for the amount so levied.

Instruments chargeable with one anna duty.

38. Nothing contained in sections 31 and 35 applies to instruments chargeable with the duty of one anna only. Subject to the provisions of section 18, no such instrument shall be received in evidence for any purpose whatever, or be registered unless it has been stamped at the time of its execution or in accordance with the provisions of section 17.

Non-liability for loss of instruments sent under section 18, 33 or 34.

39. If any instrument sent or returned under section 18, 33 or 34, be lost, destroyed or injured during transmission, the Court or officer sending or returning the same shall not be liable for such loss, destruction or injury.

The person producing any such instrument under section 30 or section 34 may require a copy thereof to be made at his expense and authenticated by the Judge, the registering officer, or the head of the office, as the case may be; and such copy shall be kept in the Court or Office until the Judge, registering officer, or head otherwise directs.

Procedure where receipts are required.

40. When any person from whom money or other moveable property exceeding in amount or value ten rupees is due or claimed to be due, pays or delivers such money or property, the person to whom the same is paid or delivered shall give a receipt for such money or property.

Stamping unstamped receipts.

41. When any receipt comes unstamped to the hands of the person to whom it is given, he may affix thereto the necessary adhesive stamp, and upon so doing may require the person who gave it to pay the value of the said stamp.

Cancellation of adhesive stamps.

42. Whoever affixes, in accordance with the stamp law, any adhesive stamp to any instrument liable to duty shall, at the time of affixing the same, cancel such stamp by writing across it his name or initials, or, if he be a partner, the name or initials of his firm, together with the true date of his so writing, so that the stamp may be effectually cancelled and rendered incapable of being used for any other instrument.

CHAPTER V.

ADJUDICATION OF DOUBTS AS TO STAMPS.

Adjudication of doubt as to proper stamp.

43. When any instrument chargeable with stamp-duty under this Act, whether previously stamped or not, is brought to the Collector, and the person bringing it desires to have the opinion of that officer as to the duty with which it is so chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall assess and charge the duty to which, in his judgment, the instrument is liable; and upon payment of such duty or of such a sum as, with the duty already paid thereon, is equal to the duty so assessed and charged, shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable under this Act has been paid.

The instrument shall thereupon be deemed to be duly stamped and shall be receivable in evidence or otherwise in all Courts and public offices as if originally executed on paper duly stamped:

Provided that nothing contained in the former part of this section shall authorize the Collector to make any such endorsement—

(*a*) on any instrument executed in British India and brought to him after the expiration of one month from the date of its execution:

(*b*) on any instrument executed out of British India and brought to him after the expiration of two months after its arrival in British India: or

(*c*) on any instrument chargeable with the stamp-duty of one anna, when brought to him after the drawing or execution thereof on paper not duly stamped.

Payments under section 43 how made.

44. The whole or any part of any payment under section 43 shall be made in stamps or in cash, as the Governor General in Council may from time to time direct by rules under section 101.

CHAPTER VI.

REFERENCE AND REVISION.

45. (*a.*)—The Chief Controlling Revenue Authority may state any case coming before it under this Act, and refer such case with its own opinion thereon, if the case arise in the Presidency of Fort Saint George or the Presidency of Bombay, to the local High Court: if it arise in the North-Western Provinces or Oudh, to the High Court of Judicature for the North-Western Provinces: if it arise in the Panjáb, to the Chief Court of the Panjáb: if it arise in the Central Provinces, to the High Court of Judicature at Bombay: and if it arise in any other part of British India, to the High Court of Judicature at Fort William.

Reference to High Court.

(*b.*)—Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

(*c.*)—If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue Authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

(*d.*)—The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded: and it shall send to the Revenue Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving the same, dispose of the case conformably to such judgment.

46. If any Collector entertains doubt as to the amount of stamp-duty chargeable on any instrument, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue Authority, and such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty in conformity with such decision.

Procedure where Collector entertains doubt as to duty chargeable.

47. If any Court other than a High Court entertains doubt as to the amount of stamp-duty chargeable on any instrument produced before it, the Judge may draw up a statement of the case and refer it with his own opinion thereon for the decision of the High Court to which he is subordinate, and such Court shall consider the case and send a copy of its decision to the Judge making the reference who shall dispose of the case conformably to such decision.

Procedure where Court entertains doubt as to duty on instrument.

48. When any subordinate civil Court makes any certificate or order under this Act or improperly admits in evidence any instrument not duly stamped, the Court to which an appeal lies from the decrees of such subordinate Court, or the High Court may—

Revision of certificates and orders.

(*a*) call for and revise such certificate or order, or

(*b*) direct the proper stamp-duty and additional duty to be levied on the instrument so admitted, or

(*c*) pass such other order in the matter as it thinks fit.

All duty directed to be levied under this section, may be levied as if it were an arrear of land-revenue.

All certificates and orders of the Collector under this Act shall be open to revision by the Revenue Authority to which he is immediately subordinate, or by the Chief Controlling Revenue Authority:

Provided that no order passed on the revision of any certificate or order under this section shall invalidate any registration or other proceeding, previously made or taken, of or upon an instrument endorsed by the Judge or Collector under section 36 or section 48.

CHAPTER VII.

FEES IN THE CHARTERED HIGH COURTS.

49. The following fees shall be collected by adhesive stamps (namely):—

Levy of fees in High Courts on their original sides.

(*a*) fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Courts established by Letters Patent, by virtue of the power conferred by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15;

(*b*) fees chargeable in each of such Courts under No. 14 of the fourth, and Nos. 16, 23, 24, 27 and 28, of the fifth, schedule.

50. No document of any of the kinds specified in the fourth or fifth schedule as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction;

Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction.

or in the exercise of its extraordinary original criminal jurisdiction;

or in the exercise of its jurisdiction as regards appeals from the judgment of two or more Judges of the said Court, or of a Division Court;

In their appellate jurisdiction.

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence;

As Courts of reference and revision.

or in the exercise of its jurisdiction as a Court of reference or revision;

unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the same schedules as the proper fee for such document.

51. When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in any

Procedure in case of difference as to necessity or amount of fee.

of the said High Courts, be referred to the Taxing-officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice appoints either generally or specially in this behalf.

The Chief Justice shall declare who shall be Taxing-officer within the meaning of this section.

52. Nothing in this chapter applies to the commission payable to the Accountant General of the High Court at Fort William, or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

Saving of fees to certain officers of High Court.

CHAPTER VIII.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

53. Except in the Courts mentioned in Chapter VII, and subject to the exemptions contained in schedule six, no document of any of the kinds specified as chargeable in the said fourth or fifth schedule shall be filed, exhibited or recorded in any Court of justice, or shall be received by any public officer, or granted under his seal or signature, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of such schedules as the proper fee for such document.

Fees on documents filed, &c., in Mufassal Courts or in public offices.

54. If any such document is through mistake or inadvertence received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Power to stamp document inadvertently received.

55. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, and the duty with which it is chargeable is not thereby increased, it shall not be necessary to impose a fresh stamp.

Amended document.

56. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:—

Computation of fees payable in certain suits:

i. In suits for money (including suits for damages or compensation, or arrears of maintenance, or of annuities or of other sums payable periodically) —according to the amount claimed:

for money:

ii. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year:

for maintenance and annuities:

iii. In suits for moveable property other than money, where the subject-matter has a market-value —according to such value at the date of presenting the plaint:

for other moveable property having a market-value:

iv. In suits—

(*a*) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

for moveable property of no market-value:

(*b*) to enforce the right to share in any property on the ground that it is joint family property,

to enforce a right to share in joint family property.

(*c*) to obtain a declaration under the Specific Relief Act, section 42,

for a declaratory decree:

(*d*) to obtain an injunction,

for an injunction:

(*e*) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for easements:

(*f*) for accounts—

for accounts:

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought:

v. In suits for the possession of land, houses and gardens—according to the value of the subject-matter; and such value shall be deemed to be—

for possession of land, houses and gardens:

where the subject-matter is land, and—

(*a*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled—

ten times the revenue so payable:

(*b*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid;

and such revenue is settled, but not permanently—

five times the revenue so payable:

(*c*) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such nett profits:

but where no such nett profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood:

(*d*) where the land forms part of an estate paying revenue to Government, but is not a definite

share of such estate and is not separately assessed as abovementioned—the market-value of the land:

Proviso as to Bombay Presidency.

Provided that, in the territories subject to the Governor of Bombay in Council, the value of the land shall be deemed to be—

(1) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government—a sum equal to five times the survey-assessment;

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment; and

(3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted.

Explanation.—The word "estate," as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or a farmer or ryot shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue.

for houses and gardens:

(*e*) Where the subject-matter is a house or garden—according to the market-value of the house or garden:

to enforce a right of pre-emption:

vi. In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph v of this section) of the land, house or garden in respect of which the right is claimed:

for interest of assignee of land-revenue:

vii. In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint:

to set aside an attachment:

viii. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached:

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest:

to redeem:

ix. In suits against a mortgagee or incumbrancer for the recovery of the property mortgaged, or to have the instrument of charge cancelled,

to foreclose:

and in suits by a mortgagee to foreclose the mortgage,

or where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money for the time being secured by the instrument of mortgage or charge:

for specific performance.

x. In suits for specific performance—

(*a*) of a contract of sale—according to the amount of the consideration:

(*b*) of a contract of mortgage—according to the amount agreed to be secured:

(*c*) of a contract of lease—according to the aggregate amount of the fine or premium (if any), and of the rent agreed to be paid during the first year of the term:

(*d*) of an award—according to the amount or value of the property in dispute:

between landlord and tenant.

xi. In the following suits between landlord and tenant, (namely)—

(*a*) for the delivery by a tenant of the counterpart of a lease,

(*b*) for the delivery by a landlord of a lease,

(*c*) to contest a notice of ejectment,

(*d*) to recover the occupancy of land from which a tenant has been illegally ejected by the landlord, and

(*e*) to establish a right of occupancy—

according to the amount of the rent of the land to which the suit refers, payable for the year next before the date of presenting the plaint,

(*f*) to enhance the rent of a tenant having a right of occupancy, and

(*g*) to abate the rent of any tenant,—

five times the amount by which the rent is sought to be enhanced or abated.

The plaint or memorandum of appeal in every suit or appeal mentioned in this section shall state the amount or value with reference to which the fee payable in respect of such plaint or memorandum is to be computed.

Fees in certain suits by Government ryots in Madras.

57. Notwithstanding anything herein contained, throughout the territories subject to the Governor of Fort St. George in Council, the fees payable in suits by Government ryots for the recovery of land sold for arrears of revenue shall not exceed the amount which would be payable if the value of the subject-matter were only the rent of the land payable for the year next before the date of presenting the plaint.

Fee on memorandum of appeal against order relating to compensation.

58. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

Power to ascertain nett profits or market-value.

59. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in section 56, clauses v and vi, have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Procedure where nett profits or market-value wrongly estimated.

60. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive,

may in its discretion refund the excess paid as such fee: but if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated:

In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.

61. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

When the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Decision of questions as to valuation.

62. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal, shall (subject to the provisions of section 54, clause (*b*) and section 588, clause (*e*) of the Code of Civil Procedure) be decided by the Court in which such plaint or memorandum, as the case may be, is filed.

Where any suit or appeal in which any such question has arisen comes before a Court of appeal, reference or revision, and such Court considers that the said question has been wrongly decided, to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of the second paragraph of section 60 shall apply.

Additional fee where respondent takes objection to unappealed part of decree.

63. When any appeal is presented to a civil Court, not against the whole of a decision, but only against so much thereof as relates to a portion of the subject-matter of the suit, the memorandum of appeal shall be chargeable with the fee which would have been payable if the subject-matter had been such portion only; and, if on the hearing of such appeal, the respondent takes, under section 561 of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional fee which would have been payable had the appeal comprised the part of the decision so objected to.

Suit comprising more than one subject.

64. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, section 45.

Cancellation of stamp.

65. No document mentioned in Schedule IV or Schedule V and requiring an adhesive stamp under the rules for the time being in force under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled in manner prescribed by such rules.

Written examinations of complainants.

66. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police-officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.

Repayment of fees paid on applications to criminal Courts.

67. Whenever an application or petition containing a complaint or charge of an offence, other than an offence for which police-officers may arrest without warrant, is presented to a criminal Court, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee paid on such application or petition.

In the case mentioned in section 66, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee, if any, paid by the latter for the examination.

When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this section, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay such fees to the complainant.

All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

CHAPTER IX.

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

Relief where too high a court-fee has been paid on probate or letters of administration.

68. Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Court by which the probate or letters has or have been granted,

and delivers to such Court a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Court is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Court may at its discretion—

(*a*) cancel the stamp on the probate or letters, if such stamp has not been already cancelled;

(*b*) order that another stamp be substituted for denoting the court-fee which should have been paid thereon; and

(*c*) order that an allowance for the difference between them, or a refund of the amount in money, be made as in the case of spoiled stamps.

Relief where debts due from a deceased person have been paid out of his estate.

69. Whenever it is proved to the satisfaction of such Court that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

the Court may order the amount of the difference to be refunded, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the Court may allow such further time for making the claim as may appear to be reasonable under the circumstances.

Relief in case of several grants.

70. Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

Probates declared valid as to trust-property though not covered by court-fee.

71. The probate of the will, or the letters of administration of the effects, of any person deceased, heretofore or hereafter granted, shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration.

Provision for case where too low a court-fee has been paid on probates, &c.

72. When any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Court by which the probate or letters has or have been granted, may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value, and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or if it or they is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters:

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters, and if the Court is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper court-fee, the Court may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

Administrator to give proper security before letters stamped under section 79.

73. In case of letters of administration on which too low a court-fee has been paid at first, the said authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had then been ascertained.

Executors, &c., not paying full court-fee on probates, &c., within six months after discovery of underpayment.

74. Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper court-fee.

Collector to deliver or pay stamp or amount directed by Court.

75. When any Court orders under this chapter any stamp to be substituted or amount to be refunded, such stamp or amount shall be delivered or paid by any Collector to the person producing the Court's order or certificate authorizing such delivery or payment.

This chapter applied to certificates under Acts XL of 1858, XXVII of 1860 and XX of 1864.

76. The provisions of this chapter shall, *mutatis mutandis*, apply to certificates granted under Act No. XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), or Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), or Act No. XX of 1864 (*for making better provision for the care of the persons and property of Minors in the Presidency of Bombay*), or Bombay Regulation VIII of 1827 (*to provide for the formal recognition of Heirs, Executors and Administrators, and for the appointment of Administrators and Managers of property by the Courts*), and to the holders of such certificates.

CHAPTER X.

REFUNDS.

Allowance for spoiled stamps.

77. Subject to such rules as may from time to time be made by the Governor General in Council as to the evidence, by affidavit or otherwise, which the Collector may require, allowance shall be made by the Collector for stamps spoiled in the cases hereinafter mentioned (that is to say):—

(1.) The stamp on any paper inadvertently and undesignedly spoiled, obliterated, or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any party, and for which stamp no money or other consideration has been paid or given to the attorney, pleader, or other person employed to transact the business intended to have been carried into execution thereby, or to the person by whom the same was written:

(2.) Any adhesive stamp which has never been used or affixed to any paper, but which has been inadvertently and undesignedly spoiled or rendered unfit for use:

(3.) The stamp used or intended to be used for any bill of exchange or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of the hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negociated, issued, or put in circulation, or made use of in any other manner whatever, and which being a bill of exchange has not been accepted by the drawee, and provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange to be afterwards written thereon:

(4.) The stamp used or intended to be used for any bill of exchange or promissory note signed by or on behalf of the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange, may have been presented for acceptance or accepted or endorsed, or being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such error or omission as aforesaid, with the spoiled bill or note:

(5.) The stamp used for any of the following instruments, that is to say:—

(*a*) an instrument executed by any party thereto, but afterwards found to be absolutely void in law from the beginning:

(*b*) an instrument executed by any party thereto, but afterwards found unfit by reason of any error or mistake therein for the purpose originally intended:

(*c*) an instrument executed by any party thereto, but which by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to effect the intended transaction in the form proposed:

(*d*) an instrument executed by any party thereto, which for want of the execution thereof by some material and necessary party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended:

(*e*) an instrument executed by any party thereto, which by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted totally fails of the intended purpose:

(*f*) an instrument executed by any party thereto, which for want of registration within the time required by law becomes null and void:

(*g*) an instrument executed by any party thereto, which becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped:

(*h*) an instrument executed by any party thereto, which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided as follows:—

(1.) that in the case of an executed instrument,

(*a*) that instrument is given up to be cancelled:

(*b*) the application for relief is made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where from unavoidable circumstances any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent abroad, and in that case within six months after it has been received back in any part of British India:

(*c*) no suit has been instituted in which the instrument could or would have been given or offered in evidence:

(2.) that in the case of stamped paper, not having any executed instrument written thereon, and of an adhesive stamp not affixed to any material, the application for relief is made within six months after the stamp has been spoiled as aforesaid.

Allowance for misused stamps.

78. When any person has inadvertently used for an instrument liable to duty a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not liable to any duty, the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within

six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if liable to any duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused.

Allowance how to be made.

79. In any case in which allowance is made for spoiled or misused stamps the Collector may give in lieu thereof other stamps of the same denomination and value, or, if required, and he thinks proper, stamps of any other denomination to the same amount in value, or, at his discretion, the same value in money, deducting the proper allowance on the purchase from Government of stamps of the like description.

Repurchase of stamps not wanted.

80. When any person is possessed of a stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector may, if he in his discretion think fit, repay to the applicant the amount or value of such stamp in money, deducting the proper discount, upon his delivering up the stamp to be cancelled, and proving to the Collector's satisfaction that it was purchased by the applicant with a *bonâ fide* intention to use it, and that he has paid the full value thereof without any deduction (except only the amount of such discount), and that the stamp was so purchased within the period of six months next preceding the application.

Refund of fee paid on memorandum of appeal.

81. If a plaint or appeal which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in section 562 of the same Code, for a second decision by the lower Court, the appellate Court may grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

Provided that, if, in the case of a remand in appeal, the order of remand does not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

Refund of fee on application for review of judgment.

82. When an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's *laches*, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

Refund where Court reverses or modifies its former decision on ground of mistake.

83. When an application for a review of judgment is admitted, and on the re-hearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector the fee paid on the application.

Nothing in the former part of this section entitles the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

Refund where plaint rejected for merely technical defect.

84. When a plaint disclosing a reasonable case on the merits is presented to any civil Court in such a form that the Judge rejects it, not for any substantial defect, but on account of a purely technical error in form only, and so as to leave the plaintiff free to prosecute the same case in another form against the same defendant, the value of the stamp on the plaint shall be refunded to the plaintiff on his presenting an application to the Collector of the District in which the Court is situate, together with a certificate from the Judge who rejected the plaint, that it was rejected under the circumstances above described and that in his opinion the value of the stamp should be refunded.

Remission of additional duty levied under section 31.

85. The Chief Controlling Revenue Authority may upon application remit wholly or in part any additional duty levied under section 31.

CHAPTER XI.

CRIMINAL PENALTIES.

Penalty for executing instrument on paper not duly stamped.

86. Any person making, signing or issuing, or, except as provided in section 18, accepting, endorsing, paying, or receiving payment of any bill of exchange, promissory note, cheque, or other similar instrument liable to any of the duties hereby imposed, without the same being duly stamped,

and any person making, executing or signing otherwise than as a witness any other instrument liable to any of such duties without the same being duly stamped,

shall, for every such offence, be liable to a fine not exceeding two hundred rupees.

Penalty for presenting, &c., unstamped foreign bills or notes.

87. Any person presenting for acceptance or for payment, or accepting, paying, endorsing, transferring or in any manner negociating, any bill of exchange or promissory note drawn or made out of British India whereon there is not such stamp as is required by this Act, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Refusal to give receipt.

88. Any person required by section 40 to give a receipt and refusing or neglecting to give the same shall be liable for every such offence to a fine not exceeding one hundred rupees.

Penalty for failure to cancel such stamps.

89. Any person required to cancel an adhesive stamp in manner directed by section 42, and refusing or neglecting so to do, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

90. When a bill of exchange or policy of insurance purports to be drawn or executed in a set of two or more, any person using the second or third of a set, the first of which has not been duly stamped, shall, for every such offence, be liable to a fine not exceeding one thousand rupees.

Penalty for not stating consideration.

91. If the full consideration-money or value is not set forth in any instrument as required by section 20, the grantor and grantee shall each be liable to a fine not exceeding five hundred rupees, and shall also pay a fine of five times the amount of the excess of duty with which such instrument would have been chargeable under this Act, if the full consideration-money or value had been duly set forth in such instrument, in addition to the duty actually paid for the same.

Penalty on attorneys, &c., not inserting true consideration.

92. Any attorney, vakíl, pleader, mukhtár or other person employed in or about the preparing of any instrument in or upon which the full consideration-money or value is hereby required to be truly set forth,

or employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned,

who knowingly inserts or sets forth, or causes to be inserted or set forth, in or upon any such instrument any other than the full consideration-money or value,

shall, for every such offence, pay a fine not less than five hundred rupees and not exceeding five thousand rupees.

Every attorney, vakíl, pleader and mukhtár convicted under this section shall, from the date of such conviction, be disabled to practise as an attorney, vakíl, pleader or mukhtár:

Provided that no person shall be liable to any penalty or disability under this section, unless the duty actually paid for the instrument is less than would have been payable for the same in case the consideration-money or value had been truly set forth as aforesaid.

Fraudulent removal, sale, &c., of adhesive stamps.

93. Whoever commits any of the following offences (namely):—

(*a*) fraudulently removes or causes to be removed from any instrument any adhesive stamp or affixes any adhesive stamp which has been so removed to any other instrument with intent that such stamp may be used again;

(*b*) sells or offers for sale or utters any adhesive stamp which has been so removed, or utters any instrument having thereon any adhesive stamp which has to his knowledge been so removed as aforesaid;

(*c*) practises or is concerned in any fraudulent act, contrivance or device not specially provided for, with intent to defraud the Government of any stamp-duty or court-fee,

shall forfeit, over and above any other penalty to which he may be liable, the sum of five hundred rupees, and in default of payment shall be imprisoned for a term which may extend to six months.

Penalty for stamp-vendor disobeying rules.

94. Any person appointed to sell stamps, who knowingly disobeys any rule made under section 101, and any person not so appointed who sells or offers for sale any stamp, shall be punished with simple imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Reward to informers.

95. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half to the person on whose information the offender has been convicted.

Institution and conduct of prosecutions.

96. All prosecutions in respect of any offence punishable by this Act, shall be conducted by the Collector or such other officer as the Local Government generally or the Collector specially authorizes in that behalf.

Magistrates having jurisdiction.

97. Offences punishable under this Act may be tried, within the limits of the towns of Calcutta, Madras and Bombay, by a Magistrate of Police, and, beyond those limits, by a Magistrate of the first class or a Magistrate of the second class:

Provided that, in imposing penalties under this Act, no such person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure.

CHAPTER XII.

MISCELLANEOUS.

Employment of single impressed stamp.

98. When an impressed stamp is used to defray the amount of duty with which any instrument is chargeable, such amount shall be defrayed by a single stamp, except when such amount exceeds one thousand rupees, in which case it may be defrayed by two or more impressed stamps of which the aggregate amount is the amount so required:

Provided that, when a single impressed stamp of any amount less than one thousand rupees is not procurable on application to the Collector or stamp-vendor appointed under the rules hereinafter mentioned, it shall be lawful, on such officer making a certificate to that effect, for the person requiring such stamp to defray the amount by two or more impressed stamps, of which the aggregate amount is the amount so required.

Employment of several stamped papers.

99. When more stamped papers than one are used under section 98 for an instrument chargeable with stamp-duty under this Act, each paper so used shall contain a part of the instrument.

Power to reduce or remit rates of stamp-duty.

100. The Governor General in Council may from time to time, by order published in the *Gazette of India*, reduce or remit, in the whole or any part of British India, the duties or fees chargeable under this Act on all or any of the instruments mentioned in the schedules, or on any particular class of such instruments, or on any of the instruments belonging to such class, or on any of the instruments mentioned in the schedules when executed or granted by or to any particular class of persons, or by or to any members of such class,

and may in like manner cancel or vary such order to the extent of the powers hereby given.

Every such cancelment or variation shall be published in the *Gazette of India*.

Power to make subsidiary rules.

101. The Governor General in Council may from time to time frame rules consistent with this Act for regulating the following matters:—

(*a*) the description of stamp for denoting the duty or fee chargeable on every instrument under the stamp law:

(*b*) the supply and sale of stamps, the persons by whom such sale is to be conducted, and the duties and remuneration of such persons:

(*c*) the size and shape of the stamped paper to be used for bills of exchange:

(*d*) the classes of officers to be empowered to perform the functions of a Collector under chapter X, and the evidence which the Collector and such officers may require:

(*e*) the mode of cancelling court-fee stamps and the persons by whom such cancellation is to be effected:

(*f*) the keeping accounts of all stamps used under chapters VII and VIII:

Approval and publication of rules.

Such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

SCHEDULE I.

AD VALOREM STAMP-DUTIES.

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
Class I.		
1. BILL OF EXCHANGE PAYABLE AT SIGHT OR AT ANY PERIOD NOT EXCEEDING ONE YEAR AFTER DATE OR SIGHT.*	When the amount of the Bill or Note does not exceed ... Rs. 100	Two annas.
2. PROMISSORY NOTE SO PAYABLE.	and when the amount exceeds ... 100 but does not exceed ... 250	Four annas.
	Do. ... 250 do. ... 500	Eight annas.
	Do. ... 500 do. ... 750	Twelve annas.
	Do. ... 750 do. ... 1,000	One rupee.
	and for every 1,000 or part thereof in excess of ... 1,000	One rupee.
3. INSTRUMENT EVIDENCING AN AGREEMENT TO SECURE THE REPAYMENT ON OR BEFORE THE EXPIRATION OF THREE MONTHS FROM THE DATE OF SUCH INSTRUMENT OF A LOAN MADE UPON THE DEPOSIT OF TITLE DEEDS OR OTHER VALUABLE SECURITY.	... ...	One-half of the stamp-duty payable on a Bill of Exchange for the amount secured.
4. POLICY OF INSURANCE.*		
Class II.		
5. BOND (NOT OTHERWISE PROVIDED FOR BY THIS ACT) FOR ANY SPECIFIED AMOUNT.	When the amount secured does not exceed ... 50	Four annas.
6. BOTTOMRY-BOND...	When such amount exceeds ... 50, but does not exceed ... 100	Eight annas.
7. RESPONDENTIA-BOND.	and for every ... 100 or part thereof in excess of ... 100 up to ... 1,000	Eight annas.
8. SETTLEMENT.	and for every ... 1,000 or part thereof in excess of ... 1,000	Five rupees.

* NOTE.—When any bill or policy coming under No. 1 or No. 4 is drawn in a set, the proper stamp shall be borne by the first of the set, and the remaining parts must be stamped by the Collector "duty-paid."

SCHEDULE I—*continued.*

AD VALOREM STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
	Rs.	
9. BILL OF EXCHANGE PAYABLE AT A PERIOD EXCEEDING ONE YEAR AFTER DATE OR SIGHT.	... ...	The same duty as a Bond (No. 5) for the amount of such Bill or Note.
10. PROMISSORY NOTE SO PAYABLE.		
11. PARTITION-DEED	... ...	The same duty as a Bond (No. 5) for an amount equivalent to the value of the entire property distributed.
12. ASSIGNMENT (OTHERWISE THAN BY INDORSEMENT) OF ANY INTEREST SECURED BY A BOND, MORTGAGE-DEED, OR POLICY OF INSURANCE.	(*a*). When the amount or value of such interest does not exceed 1,000	The same duty as a Bond (No. 5) for such amount or an amount equivalent to such value.
	(*b*). In any other case	Five rupees.
13. ADMINISTRATION-BOND.		
14. BOND OR MORTGAGE-DEED FOR THE EXECUTION OF AN OFFICE, OR TO ACCOUNT FOR MONEY RECEIVED BY VIRTUE THEREOF.	(*a*). When the amount secured does not exceed ... 1,000	The same duty as a Bond (No. 5).
	(*b*). In any other case	Five rupees.
15. CUSTOMS-BOND ...		
16. INDEMNITY-BOND.		
17. APPRAISEMENT OR VALUATION— OF ANY PROPERTY OR OF ANY INTEREST THEREIN, OR OF THE ANNUAL OR MONTHLY VALUE OF SUCH PROPERTY, OR OF ANY REPAIRS WANTED, OR OF THE MATERIALS USED OR TO BE USED IN ANY BUILDING, OR OF ANY ARTIFICER'S WORK.	(*a*). Where the amount of such appraisement or valuation does not exceed ... 1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case	Five rupees.

SCHEDULE I—*continued.*

AD VALOREM STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
18. AWARD	(*a*). Where the amount or value of the property in dispute does not exceed Rs. 1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case ...	Five rupees.
Class III.		
19. CONVEYANCE ...	When the amount paid or secured or the value expressed does not exceed 50	Eight annas.
20. INSTRUMENT OF GIFT, OR EXCHANGE OF ANY PROPERTY, NOT OTHERWISE PROVIDED FOR.	Exceeds ... 50 but does not exceed 100	One rupee.
	For every ... 100 or part thereof in excess of Rs. 100 up to ... 1,000	One rupee.
	and for every 1,000 or part thereof in excess of 1,000	Ten rupees.
21. TRANSFER OF A SHARE IN A COMPANY OR ASSOCIATION.		One-quarter of the duty payable on a Conveyance.
Class IV.		
22. MORTGAGE-DEED	(*a*). When possession of the property comprised therein is not given by the mortgagor at the time of execution.	The same duty as a Bond (No. 5) for the amount secured by such deed or instrument.
23. INSTRUMENT OF FURTHERCHARGE ON THE MORTGAGED PROPERTY.	(*b*). When possession of the property comprised therein is given by the mortgagor at the time of execution.	The same duty as a Conveyance for a consideration equivalent to the amount secured by such deed or instrument.
24. RELEASE OF ANY CLAIM OVER PROPERTY, WHETHER SECURED BY MORTGAGE-DEED OR NOT.	(*a*). If the amount of the claim does not exceed ... 1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case ...	Five rupees.
25. RECONVEYANCE OF MORTGAGED PROPERTY.	(*a*). If the consideration for which property was mortgaged does not exceed... 1,000	The same duty as a Conveyance.
	(*b*). In any other case ...	Ten rupees.

SCHEDULE I—*concluded.*

AD VALOREM STAMP-DUTIES.—*concluded.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
26. LEASE	(*a*). Where the lease is expressed to be for a term—	
	(*aa*) of less than one year ...	The same duty as a Bond (No. 5) for the whole amount payable under such lease.
	(*bb*) of not less than one year, but not more than three years.	The same duty as a Bond (No. 5) for the average annual rent reserved.
	(*cc*) exceeding three years, or where no term is expressed.	The same duty as a Conveyance for a consideration equal to the amount of the average annual rent reserved.
	(*b*). Where the lease is granted for a fine or premium, and where no rent is reserved.	The same duty as a Conveyance for consideration equal to the amount of such fine.
	(*c*). Where the lease is granted for a fine or premium in addition to rent reserved.	The same duty as a Conveyance for consideration equal to the amount of such fine, in addition to the duty payable on such lease if no fine or premium had been paid.
27. SURRENDER OF LEASE.	(*a*). When the duty payable on the lease does not exceed five rupees.	The same duty as is payable on the lease.
	(*b*). In any other case	Five rupees.
28. COPY, DUPLICATE OR EXTRACT ATTESTED TO BE A TRUE COPY, DUPLICATE OR EXTRACT, AND NOT PROVIDED FOR IN THE FOURTH OR FIFTH SCHEDULE.	(*a*). If the duty payable on the original does not exceed eight annas.	The same duty as is payable on the original.
	(*b*). In any other case	Eight annas.
29. COUNTERPART OF ANY INSTRUMENT UPON WHICH DUTY IS PAYABLE.	(*a*). If the duty payable on the original instrument is less than one rupee.	The same duty as is payable on the original.
	(*b*). In any other case	One rupee.

SCHEDULE II.

FIXED STAMP-DUTIES.

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
I.	
1.—AGREEMENT OR MEMORANDUM OF AN AGREEMENT relating to the sale of any Government Security, Share in a Company or Association, or Bill of Exchange	One anna.
2.—BILL OF EXCHANGE, PROMISSORY NOTE, CHEQUE OR ORDER for the payment on demand of an amount exceeding ten rupees	
3.—CERTIFICATE OR OTHER DOCUMENT purporting to denote the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Association, or proposed Company or Association, or to become proprietor of shares, scrip or stock in or of any such Company or Association ...	
4.—DELIVERY ORDER	
5.—LETTER OF CREDIT	
6.—LETTER OF ALLOTMENT OF SHARES in any Company or proposed Company, or in any loan to be raised by any Company or proposed Company	
7.—NOTE OR MEMORANDUM written in any book, or written on a separate paper, whereby any account, debt or demand or any part of any account, debt or demand therein specified and amounting to ten rupees or upwards, is expressed to have been balanced or is acknowledged to be due (*a*)	
8.—PROXY to vote at any one meeting of—	
(*a*).—Members of a Company or Association whose stock or funds is or are divided into shares and transferable	
(*b*).—Municipal Commissioners	
(*c*).—Justices of the Peace, being a body corporate ...	
(*d*).—Proprietors, members or contributors to the funds of any institution	
9.—RECEIPT OR DISCHARGE	
10.—SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel	
II.	
11.—BILL OF LADING (*b*)	Four annas.
12.—DOCK-WARRANT	
13.—INSTRUMENT OF EXCHANGE whereby the owner or occupier of land in a village in the Presidency of Bombay relinquishes his rights therein to the Local Government, upon the site of the village being changed, and accepts rights in other land in exchange for the rights so relinquished	

NOTES.—(*a*). If the acknowledgment is accompanied by any promise to pay the amount acknowledged or any part thereof, the provisions of section 28 apply.

(*b*). When a Bill of lading is drawn in sets, the proper stamp therefor must be borne by each one of the sets.

SCHEDULE II—*continued.*

FIXED STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
III.	
14.—AGREEMENT by the acceptor of the occupancy of land denoted by a survey number to pay revenue therefor under the Bombay Act I of 1865, section 28 (*c*) ...	Eight annas.
15.—AGREEMENT OR MEMORANDUM OF AN AGREEMENT not otherwise provided for by this Act (*d*) ...	
16.—NOTICE OF PROTEST by the master or owner of a ship	
17.—POWER-OF-ATTORNEY for the sole purpose of presenting one or more documents for registration in relation to a single transaction	
IV.	
18.—AFFIDAVIT	One rupee.
19.—CHARTER-PARTY	
20.—COLLATERAL INSTRUMENT	
21.—NOTARIAL ACT	
22.—POWER-OF-ATTORNEY authorizing a person to act in a single transaction, not being the presentation of documents for registration	
23.—PROTESTS—	
A.—Of a Bill of Exchange or Promissory Note ...	
B.—Of the master or owner of a ship	
V.	
24.—CONVEYANCE OF ANY PROPERTY without consideration otherwise than by gift, exchange, or partition ...	Five rupees.
25.—INSTRUMENT OF APPRENTICESHIP	
26.—INSTRUMENT OF DISSOLUTION OF PARTNERSHIP	
27.—INSTRUMENT OF DIVORCE	
28.—POWER-OF-ATTORNEY authorizing a person to act for another in more than one transaction or generally ...	

NOTES.—(*c*). Provided that when the yearly revenue assessed on the land to which such agreement refers is less than eight annas, the agreement shall be subject to duty not exceeding the amount of such revenue.

(*d*). When two or more letters are tendered in evidence to prove any agreement between the writers thereof, it is sufficient if one of such letters is stamped as an agreement.

SCHEDULE II—*continued.*

FIXED STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
VI.	
29.—COMPOSITION-DEED	Ten rupees.
30.—INSTRUMENT OF CO-PARTNERSHIP	
31.—INSTRUMENT (OTHER THAN A WILL) PURPORTING TO CONFER AN AUTHORITY TO ADOPT...	
32.—INSTRUMENT OF TRANSFER under the Administrator General's Act (section 31)	
33.—LETTER OF LICENSE	
34.—LICENSE granted under the Arms Act (section 7) ...	
35.—REVOCATION OF ANY USE OR TRUST of or concerning any property	
36.—THIRD CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*d*)	
37.—THIRD CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) (*d*)	
VII.	
38.—APPOINTMENT in execution of a power, whether of trustees or of property, where made by any writing not being a Will	Fifteen rupees.
39.—DECLARATION OF ANY USE OR TRUST of or concerning any property where made by any writing not being a Will	
40.—ARTICLES OF ASSOCIATION OF A COMPANY ...	
41.—MEMORANDUM OF ASSOCIATION OF A COMPANY	
42.—SECOND CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*e*)	
43.—SECOND CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) (*e*)	
44.—THIRD CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) *(d)*	

NOTES.—(*d*). A third class certificate authorizes—

(1). *A Pleader* to practise in the Courts of Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs.

(2). *A Mukhtár* to practise in the Courts of Commissioners of Circuit, Magistrates, Munsifs, Assistant Commissioners and Extra Assistant Commissioners.

(3). *A Revenue-Agent* to practise in the office of a Collector or any office subordinate thereto.

(*e*). A second class certificate authorizes—

(1). *A Pleader or Mukhtár* to practise in the District Courts and all Courts subordinate thereto.

(2). *A Revenue-Agent* to practise in the office of a Commissioner or any office subordinate thereto.

SCHEDULE II—*concluded.*

FIXED STAMP-DUTIES—*concluded.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
VIII.	
45.—FIRST CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*f*)	Twenty-five rupees.
46.—FIRST CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) *(f)*...	
47.—SECOND CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) (*e*)	
IX.	
48.—FIRST CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) (*f*)...	Fifty rupees.
X.	
49.—PETITION FOR LEAVE TO FILE A SPECIFICATION OF AN INVENTION or for the extension of the term of the exclusive privilege of making or using or selling such invention in India (under Act XV of 1859)	One hundred rupees.
XI.	
50.—ADMISSION AS AN ATTORNEY IN ANY HIGH COURT	Two hundred and fifty rupees.
XII.	
51.—ARTICLES OF CLERKSHIP OR CONTRACT whereby any person becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court ...	Five hundred rupees.
52.—ENROLMENT AS AN ADVOCATE OF ANY HIGH COURT	

NOTE.—(*f*.) A first class certificate authorizes—

(1). *A Pleader or Mukhtár* to practise in the High Court and all Courts subordinate thereto.

(2). *A Revenue-Agent* to practise in the Board of Revenue or any office subordinate thereto.

SCHEDULE III.

EXEMPTIONS FROM STAMP-DUTY.

1. Affidavit when made—
   (*a*). for the sole purpose of enabling any person to receive any pension or charitable allowance; or
   (*b*). for the immediate purpose of being filed or used in any Court or before the officer of any Court; or
   (*c*). as a condition of enlistment under the Indian Articles of War.

2. Agreement or memorandum of agreement—
   (*a*). for or relating to the sale of goods or merchandize exclusively;
   (*b*). made by ryots for the cultivation of the poppy for Government.

3. Any instrument whether executed by or in favour of Government in cases where the Government would but for this exemption be liable to pay for the stamp thereon.

4. Appraisement or valuation made for, and for the information of one party only, and not being in any manner obligatory as between parties either by agreement or operation of law.

5. Assignment of copyright by entry made under Act No. XX of 1847, section 5.

6. Awards and agreements made under the Land Acquisition Act, 1870.

7. Bond when executed by—
   (*a*). the sureties of middlemen (lambardárs or khattadárs), taking advances for the cultivation of the poppy for Government;
   (*b*). headmen nominated under rules framed in accordance with the Bengal Act III of 1876, section 99, for the due performance of their duties under that Act;
   (*c*). any person for the purpose of guaranteeing that the local income derived from private subscriptions of a charitable dispensary or hospital shall not be less than a specified sum per mensem.

8. Contracts for service in British Burma under the Chief Commissioner of that province entered into between Natives of India emigrating to British Burma and the Superintendent of State Emigration or other Government officer acting as representative of the said Chief Commissioner.

9. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

10. Counterpart of any instrument exempted from stamp-duty by this Schedule.

11. Instrument of Apprenticeship relating to any poor child apprenticed by or at the sole charge of any public charity.

12. Instruments executed by salaried officers of Government to secure the due performance of their duties.

13. Leases—
   (*a*). When granted to or by a person cultivating any land with his own hands, unless a fine or premium be paid in consideration of such lease.
   (*b*). Of fisheries granted under the Burma Fisheries Act, VII of 1875.

14. Letter of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy of insurance, nothing shall be recoverable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

15. Letters of hypothecation accompanying a bill of exchange.

16. Receipts—
   (*a*). given for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army when serving in such capacity:
   (*b*). given for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity:
   (*c*). given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said armies, and serving in such capacity:

SCHEDULE III—*concluded.*

EXEMPTION FROM STAMP-DUTY—*concluded.*

   (*d*). given for money or securities for money deposited in any bank or in the hands of any banker or person acting as a banker to be accounted for:

Provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for:

Provided further, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

17. Receipt or discharge—
   (*a*). granted to a cultivator for the rent of land paying revenue to Government, or (in the Presidencies of Madras and Bombay) of inám lands: or
   (*b*). endorsed on or contained in any instrument duly stamped according to the law in force in British India at the date of its execution, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity or other periodical payment thereby secured.

18. Surrender of lease executed by a person cultivating the land with his own hand to his landlord.

19. Tenders to the Government of India on account of any loan.

20. Transfers by endorsement—
   (*a*). of a negotiable instrument or policy of insurance:
   (*b*). of securities of the Government of India.

SCHEDULE IV.

AD VALOREM COURT-FEES.

NUMBER.		PROPER FEE.
1. Plaint or memorandum of appeal (not otherwise provided for in this Act), presented to any civil or revenue Court, except High Courts established by letters patent and Courts of Small Causes.	When the amount or value of the subject-matter in dispute does not exceed five rupees	Six annas.
	When such amount or value exceeds five rupees—For every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees	Six annas.
	When such amount or value exceeds one hundred rupees—For every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees	Twelve annas.
	When such amount or value exceeds one thousand rupees—For every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees	Five rupees.
	When such amount or value exceeds five thousand rupees—For every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees	Ten rupees.
	When such amount or value exceeds ten thousand rupees—For every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees ...	Fifteen rupees.
	When such amount or value exceeds twenty thousand rupees—For every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees	Twenty rupees.
	When such amount or value exceeds thirty thousand rupees—For every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees	Twenty rupees.
	When such amount or value exceeds fifty thousand rupees—For every five thousand rupees, or part thereof, in excess of fifty thousand rupees	Twenty-five rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be three thousand rupees.	
2. Plaint presented to any Court of Small Causes.	When the amount or value of the subject-matter in dispute does not exceed five rupees	Eight annas.
	When such amount or value exceeds five rupees—For every five rupees or part thereof in excess of five rupees up to one hundred rupees	Eight annas.
	When such amount or value exceeds one hundred rupees—For every ten rupees or part thereof in excess of one hundred rupees up to one thousand rupees	One rupee.

SCHEDULE IV—*continued.*

AD VALOREM COURT-FEES—*continued.*

NUMBER.		PROPER FEE.
3. Plaint in a suit for possession under the Specific Relief Act, 1877, section 42.	... ...	A fee of one-half the amount prescribed in the foregoing scale.
4. Application for review of judgment or a new trial, if presented on or after the ninetieth day from the date of the decree.	... ...	The fee leviable on the plaint or memorandum of appeal in the suit in which the application is presented.
5. Application for review of judgment or a new trial, if presented before the ninetieth day from the date of the decree.	... ...	One-half of the fee leviable on the plaint or memorandum of appeal in the suit in which the application is presented.
6. Applications under sections 523 or 525 of the Code of Civil Procedure.	(*a*).—When the amount or value of the subject-matter in dispute does not exceed Rs. 500.	One-half of the fee payable on a plaint in a suit.
7. Agreement under section 527 of the Code of Civil Procedure.	(*b*).—In any other case	Twenty rupees.
8. An authenticated copy or translation of a judgment or order not being, or having the force of, a decree.	When such judgment or order is passed by any civil Court other than a High Court, or by the presiding officer of any revenue Court or office, or by any other judicial or executive authority—	
	(*a*).—If the amount or value of the subject-matter is fifty or less than fifty rupees	Four annas.
	(*b*).—If such amount or value exceeds fifty rupees	Eight annas.
	When such judgment or order is passed by a High Court	One rupee.
9. An authenticated copy of a decree or order having the force of a decree.	When such decree or order is made by any civil Court other than a High Court, or by any revenue Court—	
	(*a*).—If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees	Eight annas.
	(*b*).—If such amount or value exceeds fifty rupees	One rupee.
	When such decree or order is made by a High Court	Four rupees.
10. An authenticated copy of any document liable to stamp-duty under Schedule I, when left by any party to a suit or proceeding in place of the original withdrawn.	(*a*).—When the stamp-duty chargeable on the original does not exceed eight annas ...	The amount of the duty chargeable on the original.
	(*b*).—In any other case	Eight annas.

SCHEDULE IV—*concluded.*

AD VALOREM COURT-FEES—*concluded.*

NUMBER.		PROPER FEE.
11. Certificate of administration granted under Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), or under Act No. XX of 1864 (*for making better provision for the care of the persons and property of minors in the Presidency of Bombay.*)*	If the amount or value of the property in respect to which such certificate is granted does not exceed five hundred rupees	Five rupees.
	If such amount or value exceeds five hundred rupees but not one thousand rupees ...	Ten rupees.
	And for every one thousand rupees, or part thereof, in excess of one thousand rupees ...	Ten rupees.
12. Certificate granted under Bombay Regulation VIII of 1827 (*to provide for the formal recognition of Heirs, Executors and Administrators, and for the appointment of Administrators and Managers of Property by the Courts.*)*	If the amount or value of the property in respect of which the probate or letters or certificate shall be granted exceeds one thousand rupees	Two and a half per centum on such amount or value.
13. Certificate granted under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.*)*	*Explanation.*—Property which a trustee has power to appoint as he thinks fit is property within the meaning of Nos. 12, 13 and 14.	
14. Probate of a will or letters of administration with or without will annexed.		

* NOTE.—The person to whom any such certificate is granted, or his representative, shall after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realised by him under such certificate.

If the monies so recovered or realised exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same and order such person to take out a fresh certificate and pay the fee prescribed by this Schedule for such excess.

In default of filing such statement within the time allowed, the Court may cancel the certificate.

A certificate which has become liable to cancellation under any of the provisions of this Note, shall remain in force until it is actually cancelled.

SCHEDULE V.

FIXED FEES.

DESCRIPTION OF DOCUMENT.		PROPER FEE.
1. Application in writing, by any person having dealings with the Government, and relating exclusively to such dealings.	When presented to any officer of the Customs or Excise Department, or to any Magistrate.	One anna.
2. Application in writing, by any person holding temporarily settled land under direct engagement with Government, and relating exclusively to such engagement.	When presented to any officer of land-revenue.	
3. Application in writing, and relating to the conservancy or improvement of any place.	When presented to any Municipal Commissioner.	
4. Application in writing for the refund of any money paid by or on behalf of the applicant to Government.	When presented to any officer of the Customs, Excise or Revenue Department, or any Executive Authority.	
5. Application in writing for the renewal or refund of value of spoiled stamps.	When presented to any Collector or other officer authorized to grant such renewal or refund.	
6. Application in writing, in reference to any suit or case of which the subject-matter is less than fifty rupees in amount or value.	When presented to any civil Court subordinate to a district Court (under the Code of Civil Procedure, 1877) or to a Collector or Revenue Officer subordinate to a Collector.	
7. Application in writing for the delivery of a copy or translation of any judgment, decree or order, or a copy of any other document.	When presented to any Court or Executive Authority, and relating to a judgment, decree or order passed by such Court or authority or a record in such Court or the office of such Executive Authority.	
8. Petition of objection under the North-Western Provinces License Act, 1877.	When presented to any Collector—	
	(*a*) by a person charged under Class III ...	One anna.
	(*b*) by a person charged under Class II ...	Four annas.
9. Application in writing under Chapter II, III, IV, X or XVI of the Civil Procedure Code, 1877.	When presented to any Civil Court subordinate to a High Court, and relating to any suit or case of which the subject-matter is not less than fifty rupees in amount or value ...	Four annas.

SCHEDULE V—*continued.*

FIXED FEES—*continued.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
10. Application in writing for the determination by any Court of the amount of compensation to be paid by a landlord to his tenant, or to deposit in any Court revenue or rent*.	.....	
11. Bail-bond or other instrument of obligation guaranteeing the attendance of the person by whom or on whose behalf the bond or instrument is executed when required.	When given by direction of any Court or Executive Authority.	
12. Complaint in writing of any offence other than an offence for which a Police Officer may under the Criminal Procedure Code arrest without warrant.	When presented to any Criminal Court.	
13. Copy—duly authenticated—of any document taken out of a Civil or Criminal Court or Revenue Office or from the Office of any Commissioner or Magistrate and not otherwise provided for by this Act.	For every sheet of paper on which such copy is engrossed.	Eight annas.
14. Plaint or memorandum of appeal in a suit to obtain possession under Act No. XVI of 1838, or the Mamlatdárs' Courts Act, 1876.	.....	
15. Plaint or memorandum of appeal in a suit to obtain a declaratory decree in respect of an under-proprietary tenure in the Province of Oudh.	.....	
16. Undertaking under the Indian Divorce Act, section 49.	.....	

* *Note.*—Provided that the proper fee to be paid upon the deposit, in any Court in the territories for the time being under the government of the Lieutenant-Governor of Bengal, of rent not exceeding the sum of fifteen rupees, shall be as follows:—

If the amount deposited does not exceed two rupees eight annas ... One anna.

If the amount deposited exceeds two rupees eight annas but does not exceed five rupees ... ... Two annas.

If the amount deposited exceeds five rupees but does not exceed ten rupees ... ... Four annas.

If the amount deposited exceeds ten rupees but does not exceed fifteen rupees ... ... Six annas.

SCHEDULE V—*continued.*

FIXED FEES—*continued.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
17. Application in writing not otherwise provided for by this Act.	(*a*).—When presented to any Court other than a High Court, or to a Collector or any Officer subordinate to a Collector or any Magistrate	Eight annas.
	(*b*).—When presented to any Chief Controlling Revenue or Executive Authority or to a Commissioner	One rupee.
	(*c*).—When presented to any High Court ...	Two rupees.
18. Mukhtárnáma or Wakálatnáma for the conduct of any one case.	(*a*).—When filed in any Court other than a High Court or before any Revenue or Executive Officer other than the Commissioner or Chief Controlling Authority.	Eight annas.
	(*b*).—When filed before a Commissioner ...	One rupee.
	(*c*).—When filed in any High Court or before any Chief Controlling Revenue or Executive Officer	Two rupees.
19. Memorandum of appeal under section 588 of the Civil Procedure Code, 1877, or from any order under any other Act for the time being in force not being a decree or having the force of a decree.	(*a*).—When presented to any Civil Court other than a High Court or any Revenue or Executive Officer other than the Commissioner and Chief Controlling Revenue or Executive Authority ...	Eight annas.
	(*b*).—When presented to any Commissioner ...	One rupee.
	(*c*).—When presented to any High Court or Chief Controlling Revenue or Executive Authority	Two rupees.
20. Summons to compel the attendance of any witness or defendant.*	(*a*).—When issued by a Court subordinate to a District Court or by any Revenue Officer other than a Commissioner or Chief Controlling Revenue Authority or by a Magistrate	Eight annas.
	(*b*).—When issued by a District Court or any Court having ordinary original jurisdiction equal to that of a District Court or a Commissioner	One rupee.
	(*c*).—When issued by a High Court or Chief Controlling Revenue Authority ...	Two rupees.

* *Note.*—The Code of Civil Procedure (section 64) requires the issue of a *separate* summons to each defendant, but in the case of witnesses each summons may include three persons, provided such witnesses all reside in the same town or village or within a distance of three miles from each other.

SCHEDULE V—*concluded.*

FIXED FEES—*concluded.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
21. Warrant of arrest or attachment of property.	(*a*).—When issued by a Court subordinate to a District Court or by any Revenue Officer other than a Commissioner or Chief Controlling Revenue Authority, or by a Magistrate	One rupee.
	(*b*).—When issued by a District Court or any Court having ordinary original jurisdiction equal to that of a District Court, or a Commissioner	Two rupees.
	(*c*).—When issued by a High Court or Chief Controlling Revenue Authority ...	Four rupees.
22. Application under Act No. X of 1859, section 26, or Bengal Act No. VI of 1862, section 9, or Bengal Act No. VIII of 1869, section 37. 23. Caveat. 24. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866. 25. Plaint or memorandum of appeal in a suit (other than a suit or proceeding under the Indian Divorce Act) for the restitution of conjugal rights.	... ...	Five rupees.
26. Plaint or memorandum of appeal in a suit.	(*a*).—To alter or set aside a summary decision or order of any of the civil Courts not established by Letters Patent or of any revenue Court: (*b*).—To alter or cancel any entry in a register of the names of proprietors of revenue-paying estates: (*c*).—To set aside an award: (*d*).—To set aside an adoption: (*e*).—Where it is not possible to estimate at a money-value the subject-matter in dispute, and which is not otherwise provided for by the Act.	Ten rupees.
27. Every petition under the Indian Divorce Act except petitions under section 44 of the same Act, and every memorandum of appeal under section 45 of the same Act. 28. Plaint or memorandum of appeal under the Pársí Marriage and Divorce Act, 1865.	... ...	Twenty rupees.

SCHEDULE VI.

EXEMPTIONS FROM COURT-FEES.

1. Application in writing—

(*a*). To a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land, or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.

(*b*). Relating to a supply, for irrigation, of water belonging to Government.

(*c*). For leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagment with Government, land of which the revenue is settled but not permanently.

(*d*). For service of notice of relinquishment of land or of enhancement of rent.

(*e*). By a witness for the return of a document filed by him in obedience to a summons.

(*f*). Containing any charge or information respecting any offence, when presented, made or laid to or before a Police-officer, or to or before the Heads of Villages or the Village-police in the territories respectively subject to the Governors in Council of Madras and Bombay.

(*g*). For permission to cut timber in Government forests, or otherwise relating to such forests.

(*h*). For compensation under any law for the time being in force relating to the acquisition of property for public purposes.

(*i*). Relating exclusively to the purchase of salt, the property of Government.

(*j*). For the payment of money admitted to be due by Government to the applicant.

2. Authority in writing to an agent to distrain.

3. Bail-bonds in criminal cases, and recognizances to prosecute or give evidence, or for personal appearance or otherwise.

4. Complaint by a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a Railway Company.

5. Copies—

a. Of any document required for public purposes the fee chargeable on which but for this exemption would be paid by Government.

(*b*). Of final sentences or orders passed by criminal Courts, which parties desirous of appealing from such sentences or orders are required by section 273 of the Code of Criminal Procedure to file with their petition of appeal: provided that the party who is desirous of appealing is in confinement under the operation of the sentence or order at the time that he applies for a copy of the same.

Of the judgment, or reasons for passing or making such sentence or order as above.

c). Of the judgment or order given by a criminal Court under section 464 of the Code of Criminal Procedure, to the accused person or person affected by such judgment or order: provided that such person is in jail, or the Court for some special reason sees fit to give such copy free of cost.

d). Of village-settlement-records furnished to landholders and cultivators during the currency or at the termination of settlement-operations.

SCHEDULE VI—*concluded.*

EXEMPTIONS FROM COURT-FEES—*concluded.*

List of fields extracted from village-settlement-records for the purpose of being filed with petitions of plaint in settlement Courts.

(*e*). Of awards and agreements under any law for the time being in force relating to the acquisition of property for public purposes furnished to persons claiming under such awards or agreements.

Nothing in this number applies to—

(1). Copies of judicial proceedings, or

(2). Copies of village settlement-records other than the list aforesaid filed in any Court or Office.

6. Declarations mentioned in section 118 and section 164 of the Code of Civil Procedure.

7. First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.

8. Petitions—

(*a*). by a prisoner or other person in duress or under restraint of any Court or its officers;

(*b*). of appeal against the chaukídárí assessment under Act No. XX of 1856, or against any municipal tax;

(*c*). presented to the Special Commissioner appointed under Bengal Act No. II of 1869 (*to ascertain, regulate and record certain tenures in Chutiá Nágpur*);

(*d*). under the Christian Marriage Act, sections 45 and 48;

(*e*). of appeal presented to Revenue-officers in accordance with section 55 of the Madras Act No. IV of 1871;

(*f*). or applications, memoranda of appeal and the proceedings under the Oudh Taluqdárs Relief Act, the Broach and Kaira Incumbered Estates Act, and Bombay Act No. VI of 1862.

9. Plaints—

(*a*). presented to a Military Court of Requests, and petition for execution of a decree of such Court;

(*b*). in suits tried by Village Munsifs in the Presidency of Fort St. George;

(*c*). and processes in suits before District Panchayats in the same Presidency;

(*d*). in suits before Collectors under Madras Regulation XII of 1816 and Madras Act No. VIII of 1865.

10. Power-of-attorney to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of Her Majesty's army whilst serving in such capacity.

11. Probate of a will, letters of administration and certificate mentioned in the fourth Schedule No. 12, where the amount or value of the property in respect of which the probate, letters, or certificate shall be granted does not exceed one thousand rupees.

12. Written statements called for by the Court after the first hearing of a suit.

SCHEDULE VII.

ACTS REPEALED.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1847 ...	Copyright	In section five, the words "without being subject to any stamp or duty."
XXXI of 1860 ...	Arms Act	In section eight, the words "and shall be engrossed upon a stamp-paper of the value of ten rupees. The stamp-paper shall be furnished by the person applying for the license."
XX of 1865 ...	Pleaders	Sections ten and twenty-two.
XVIII of 1869 ...	The General Stamp Act ...	The whole.
VII of 1870 ...	The Court Fees Act ...	The whole.
XX of 1870 ...	Amending Act VII of 1870...	The whole
XXIV of 1870 ...	Oudh Talukdárs Relief Act ...	Section twenty-four.
II of 1874 ...	Administrator General's Act...	In section thirty-one, the words "bearing a stamp of ten rupees and."
XIII of 1875 ...	Probates and Letters of Administration	Section six.

STATEMENT OF OBJECTS AND REASONS.

The provisions of the law relating to stamp-duties and Court-fees are now contained in six different Acts, and numerous orders of the Governor General in Council notified from time to time in the Government Gazette during the last seven years. It is desirable for the convenience of the public to bring these provisions within the compass of a single enactment, and it is proposed to take this opportunity to introduce measures for the improved working of the law, which experience has shown to be much needed, and at the same time to provide for the acquisition of a moderate increase of revenue from stamp-duties.

2. Such increase is to be obtained partly by the amendment of those provisions of the law which are specially designed to protect the revenue from loss through evasion of the payment of the proper stamp-duty, and partly by the enhancement of the present rates of duty in certain cases.

3. There is reason to believe that the obligation of stamping documents at the time of their execution is at present largely evaded. Prosecutions for such evasion are rarely resorted to, and the criminal penalties provided by the existing law may be said to be almost inoperative, so that frauds upon the revenue are systematically practised in the belief that the worst result to be apprehended from their detection is the levy of a fine of a certain fixed amount, in addition to the unpaid duty. The most important object to be kept in view consequently in the framing of a new Stamp Bill is to stop, as far as may be practicable, every hole of escape from the liability which the law imposes upon the executant of instruments subject to stamp-duty.

4. The new preventive provisions are contained in sections 30, 31, 33, 35 and 37, and their main object is to secure the proper scrutiny of instruments liable to stamp-duty when produced by their possessors, and the effective working of the criminal penalty-clauses as a deterrent to wilful evasions.

5. It has been shown that, in the present state of the law, the obligation to see that all documents produced in Courts and public offices are properly stamped is generally ignored unless and until the parties producing them desire to put the documents in evidence. It is not an uncommon thing for persons to produce documents improperly stamped, and on being told that they will have to pay a specified amount by way of penalty, to withdraw the documents and forego putting them in evidence; and in such cases they are allowed to escape punishment

or the offence which they have committed in not stamping or sufficiently stamping their instruments, and which is not the less an offence against the law and punishable as such, whether they wish to use the instrument or not.

6. Further, where the presiding Judge or officer does take cognizance of the omission to use a proper stamp, some difficulty is found in securing the due punishment of the offender owing to the obscure and somewhat conflicting provisions of the existing law as to the constitution of an "offence." Whilst, on the one hand, the criminal penalty is declared to be incurred upon the mere fact of under-stamping, on the other the provisions relating to the procedure to be followed on the production of unstamped documents deal prominently with the question of intention on the part of the producer, and the Courts generally ignore the presumption of fraudulent intention in the absence of proof of the existence of such intention. As such proof is not forthcoming, the producer of the instrument almost invariably escapes, mulcted only in the civil penalty which the Court is empowered to levy at its own discretion and without reference to other authority.

7. To meet this state of things, it is provided in section 30 of the Bill that every Court and head of an office shall take notice of and examine all instruments produced before them, that they shall determine whether the instrument is properly stamped, and, if not, shall impound it. Section 31 provides for dealing with an impounded instrument which is required to be put in evidence, so that there may be no obstruction to the administration of justice, whilst section 33, amongst other things, provides that this detention of the document and levy of a validating fine in the form of additional duty shall in no case protect the person responsible for the under-stamping from the criminal penalties to which his offence renders him liable. Section 35 prescribes the course to be followed by the Collector when under-stamped documents or copies thereof come into his hands, and section 36 determines the effect of the realization of the deficient duty as regards the validity of the instrument, and provides for the ultimate disposal of the latter—according as a criminal prosecution may or may not be undertaken.

8. Section 37 contains an entirely new provision and one that seems likely to stimulate the production of instruments liable to stamp-duty and not properly stamped.

It frequently happens that the person interested in putting in evidence an insufficiently stamped document was not bound by law to bear the expense of the stamp that should have been used at the time of its execution, yet he has to bear the penalty incurred through the laches of the actual defaulter. As a consequence of this state of the law, the person interested in producing the document is often deterred from so doing by the consideration of the penalty. In such cases it cannot be doubted that production will be greatly facilitated by the provisions of this section which enable the producer to throw the cost of producing the unstamped or improperly stamped document upon another person.

9. Important changes are proposed in regard to some of the instruments chargeable with *ad valorem* duties specified in the first Schedule, namely, Bills of Exchange payable otherwise than on demand, Bonds, Conveyances, Policies of Insurance and other instruments such as Promissory Notes, Leases and Mortgage-deeds which are subject to the same duties as Bills of Exchange, Bonds and Conveyances respectively.

10. Under the present law all Bonds and Conveyances in which the amount secured, or consideration stated, ranges between Rs. 50 and Rs. 10,000, and other instruments similarly chargeable, are subject to rates of stamp-duty equivalent to 1 and ½ per cent., respectively, on the maximum amount of each step in the scale of ascents by which the assessment is regulated. So far, with one exception only, to be presently stated, the sliding scale of rates of stamp-duty follow the plan of the English stamp law, but the tax is as much heavier in proportion in this country as the rupee, half rupee, quarter rupee and one anna respectively exceed in value the shilling, its half and quarter, and one penny. The exception adverted to is that, whereas in the English scale of ascents there is no intermediate step between £100 and £200 or £200 and £300, and so on, in the Indian stamp law the ascents between Rs. 1,000 and Rs. 10,000 are by steps of Rs. 500.

11. When the amount involved in the instrument chargeable with stamp-duty exceeds Rs. 10,000, the percentage of charge is, by the present stamp law in this country, diminished as the amount upon which the duty is assessed increases; whereas under the English law the same proportion of charge is maintained throughout, whatever may be the amount of the subject-matter of the instrument liable to stamp-duty.

12. The rates of stamp-duty also charged on Bills of Exchange and Promissory Notes other than those payable on demand are, relatively to the duties chargeable on Bonds and Conveyances under the Indian stamp law, lower than the English rates. For, whilst the stamp law in England imposes on Conveyances, Bonds and Bills of Exchange the duty of 12*d.*, 6*d.* and about 1⅓*d.* for every £10, here the rates on those three classes of instruments are 16 annas, 8 annas and about 1 anna for every Rs. 100 respectively.

13. The principle of the changes now proposed may be said to be the equalisation of the existing rates of percentage of duty upon the amount taxed and their adjustment to the English standard—the rupee and its halves and quarters being taken as the equivalent of the shilling and its halves and quarters respectively, and the anna as equal to the penny.

14. Some increase also in regard to the duty leviable on documents of certain amounts above Rs. 1,000 but below Rs 10,000 is involved in the proposed conversion of the intermediate steps between those amounts from Rs. 500 to Rs. 1,000, for the purpose of bringing the Indian, into precise conformity with the English, scale of ascents.

15. The minimum rate of stamp-duty now payable in the case of Bonds is to be omitted. It is thought that all instruments of this class—however low may be the amount involved—can without any hardship bear a four annas tax; whilst so comparatively numerous are the Bonds or other instruments of obligation in respect of amounts not exceeding twenty-five rupees that the additional rate of two annas to which it is proposed to subject them is likely to produce a material increase of revenue.

16. It is proposed to include Policies of Insurance on life in the general class of instruments of insurance liable to stamp-duty, and to double the existing rates of charge on these instruments generally; this change is in fact nothing more than a reversion to the rates chargeable on these documents previously to the passing of the Stamp Act of 1869. Then there was no exception in favour of Life Policies; and instruments of insurance generally were charged at the rate of 8 annas per Rs. 1,000 of the amount insured.

17. Instruments guaranteeing the repayment of loans made upon the deposit of valuable securities are by the present law subjected to a small fixed duty of two rupees only, without reference to the amount of the loan or the extent of the accommodation obtained through the transaction. It seems more equitable and consistent with the general principles which govern the determination of stamp-duties that these instruments should be taxed according to the amount involved in the transaction; hence it is proposed to substitute an *ad valorem* for a fixed duty, and, having regard to the short period for which the loan is granted, to assess the new duty at one-half of the rate applicable to Bills of Exchange.

18. The Bill provides also for the revival of the rule, in regard to the duty leviable on certain promissory notes, which was in force previous to the passing of the Stamp Act of 1869, under which a promissory note made payable at some time exceeding one year from the date of the note was liable to the same rate of duty as a Bond. As the obligatory instrument ordinarily executed in this country when loans are taken—the "tamassúk"—is more of the nature of a promissory note than a bond, it seems probable that some unnecessary sacrifice of revenue has resulted from the relinquishment of the former mode of assessment to which it is now proposed to revert in these cases.

19. The limit of amount within which cheques and other orders for the payment of money and receipts are exempted from any stamp-duty is to be reduced from twenty to ten rupees. The payment of one anna stamp-duty can hardly be considered an oppressive tax in such cases, whilst so comparatively numerous are the transactions of this kind involving small amounts, that the abolition of the exemption in respect of sums ranging between twenty and ten rupees is likely to secure a considerable increase of revenue. Further, the Bill aims at the enforcement of the delivery of a receipt for the payment of any amount in excess of ten rupees in satisfaction of a debt. Under the present law a person receiving money in payment of a debt above a certain amount is obliged to grant a receipt to the payer if the latter demands it. This enactment has been found by experience to attain its object but very imperfectly, as the payers are generally too indifferent about the matter to exercise their legal right, and consequently the payee it is believed, in a large number, if not the majority, of cases, escapes his obligation. As the obligation was imposed solely in the interest of the revenue, the principle on which it rests is not overstrained by the provision of the Bill which, upholding the obligation of the payee, dispenses with the antecedent condition for its enforcement.

20. The duty chargeable on instruments evidencing an appraisement or an award is raised by the Bill to about five times its present amount. Before 1869, these documents were not subject to any stamp-duty: the tax then imposed was purely experimental. The increase now proposed still leaves instruments of this description more lightly taxed than they are in England.

21. The Bill substitutes an *ad valorem* rate of duty for the fixed amount now chargeable on Partition-deeds. That amount is Rs. 16 and in some cases proves such a heavy tax that the matter has been made the subject of a reference to Government; an equal charge on all partitions without reference to the value of the property divided must work unsatisfactorily. An *ad valorem* duty is a more equitable form of charge, and the rate has been assimilated to that of bonds, which is one-half of the rate to which ordinary deeds of conveyance are subject.

22. An *ad valorem* charge is also proposed in lieu of a fixed duty for instruments of gift and exchange. All fixed duties are more or less objectionable, as they must either be pitched so low as to bring in no appreciable amount of revenue, or they must press with undue severity in cases in which the property concerned is of inconsiderable value. The difficulty of imposing *ad valorem* duties in these cases arises out of the want of a safe basis for their assessment, there being no consideration expressed in the instruments to be charged. It is proposed to surmount this difficulty by imposing on the parties the obligation of stating truly—under heavy penalties for fraudulent statements—the approximate value of the subject of the deed of gift or exchange.

23. The stamp-duties heretofore chargeable on pleaders' and múkhtars' certificates under the Pleader's Act are included in the Bill as part of the scheme of consolidation. It seems only just and consistent that advocates and attorneys should be similarly taxed in respect of the practice of their profession in the Courts of this country, and it is proposed to subject them to the payment of five hundred rupees, and two hundred and fifty rupees stamp-duty, respectively, on their enrolment as advocates and attorneys of a High Court. The members of the faculty practising in the Courts of England, Ireland and Scotland are somewhat similarly taxed in respect of such practice.

24. The only changes in the rates of Court-fees contemplated by the Bill are (1) in respect of suits instituted in the Courts of Small Causes, (2) the grant of probates of wills and letters of administration, and (3) the fees leviable for the service of processes.

25. The new rates for Small Cause Court suits involve a decrease of 2½ per cent. in the case of suits of this class instituted in the Presidency Towns, and a proportionate increase of the rates heretofore obtaining in such Courts situated outside those towns.

The present rates in the Presidency Towns are 2 annas per rupee or 12½ per cent. Elsewhere they are the same as in other Courts, namely, 7½ per cent. on the average amount involved in the suit. The town rate is clearly too high and some relief is called for. This, it is thought, may be

unobjectionably given by the application of the equalisation principle; and the enhancement of the rate heretofore levied in the Mufassal Small Cause Court is defensible on the ground that, as the judicial agency and general machinery of these Courts is more costly than those of the ordinary Civil Courts, whilst a complete determination of the matter in dispute is obtained in the one class of Courts and not in the other, equitable considerations admit of a higher rate of charge upon the litigants in the former case than in the latter.

26. Up to 1870 no stamp-duty was charged on Letters of Administration to the effects of deceased persons or Probates of Wills. The rate of duty then fixed was tentative and expressly declared to be subject to revision on the occasion of the next amendment of the law on the subject; it is now proposed to increase it from two, to two and a half per centum.

27. The fees now chargeable for the service of processes issuing from the Civil, Revenue and Criminal Courts are fixed by rules framed by the High Courts. It is proposed to substitute for this procedure the fixed rates specified under Nos 20 and 21 of the fifth schedule of the Bill, and to discontinue the provisions of the existing law for the regulation of the process-serving establishments.

The experience gained through the working of the present system, as to the actual cost of serving processes, renders possible the determination of the amount of the fee required in the case of each kind of process to cover the cost of its service; and it seems desirable not only that the Court-fees of this class should, like all other fees leviable under the Court-fees Act, be fixed by the Act itself, but that the regulation of the establishments to be maintained for the service of processes should be under the exclusive control of the Executive authorities.

28. It is often asserted that the provisions of the stamp law are so complicated as to be ill-understood by the public generally, and on this ground a disposition has been shown sometimes on the part of the administrators of the law to excuse, or take a very lenient view of, non-compliance with its requirements; the Bill has been framed therefore with the special endeavour to render the requirements of the law generally intelligible, by large additions to the interpretation-clauses, improved arrangement of its provisions and a simpler classification of the contents of the schedules.

29. The other alterations of the existing law contained in the Bill relate chiefly to matters of detail or procedure, are of minor importance, and do not appear to call for any special explanation.

SIMLA;
The 25th September 1877.

F. R. COCKERELL.

A. PHILLIPS,
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 10th October 1877, and was referred to a Select Committee :—

No. 17 OF 1877.

A Bill to enable the District Judges of the Presidency of Fort Saint George to suspend and remove certain ministerial officers, and for other purposes.

Preamble.

Whereas it is expedient to empower the District Judges of the Presidency of Fort Saint George to suspend and remove ministerial officers of the Courts of Subordinate Judges and District Munsifs; and whereas it is also expedient to provide for the transfer of ministerial officers from one Court to another; It is hereby enacted as follows :—

Amendment of Act III of 1873, section 23.

1. For section 23 of the Madras Civil Courts Act, 1873, the following shall be substituted (that is to say)—

Appointment and removal of ministerial officers of subordinate Courts.

"23. The ministerial officers of the Courts of the Subordinate Judges and District Munsifs shall be appointed by such Subordinate Judges and District Munsifs, respectively, subject to the approval or confirmation of the District Judge within whose jurisdiction such Courts are situate, and may be suspended or removed from office either by the said District Judge or (subject to his approval or confirmation) by such Subordinate Judges and District Munsifs respectively."

Addition after section 24 of Act III of 1873.

2. After section 24 of the same Act, the following section shall be inserted :—

Transfer of ministerial officers.

"24 A. The Local Government may, at the instance of the District Judge, transfer from any Court, except the High Court, to any other Court, except the High Court, all or any of the ministerial officers of the Court of such Judge, or of any Subordinate Judge or District Munsif under his control.

"The District Judge may transfer all or any of the ministerial officers of any Court under his control to any other such Court."

STATEMENT OF OBJECTS AND REASONS.

The Madras Government and the Madras High Court desire that the District Judges should have the power of suspending or removing ministerial officers of the Courts of the Subordinate Judges and District Munsifs in addition to the power which they now possess under Act III of 1873, section 23, of approving and confirming those officers. The first section of the Bill is intended to effect this object.

Powers, resembling those conferred by Act VI of 1871, section 37, are also given to transfer ministerial officers from one Court to another.

SIMLA;
The 19th September 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

[Second publication.]

The following preliminary 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 10th October 1877 :—

We, the undersigned members of the Select Committee to which the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques was referred, have considered the papers specified in the appendix, and have the honour to present this preliminary report.

2. This Bill, of which a draft, hereinafter called the draft Bill, was prepared by the late Indian Law Commission, is intended to be one of the chapters of the Indian Civil Code, and was introduced and referred to a Select Committee in December 1867. The then mercantile members of Council, while admitting the desirability of codification, objected to the draft Bill on account of its deviations from English law. In order to obviate this objection several alterations have now been made in its substantial provisions. The Bill has also been re-arranged; and some additions have been made in order to supply omissions. These changes, which embody most of the suggestions contained in the papers mentioned in the appendix, will appear in detail from this report.

3. It may, however, be convenient, before proceeding further, to notice briefly the alterations which have been made in order to render the Bill conformable to English law.

4. The draft Bill provided that an indorsee for value after maturity should have only the rights of his indorser. This does not except the case of a bill of exchange drawn or accepted for the purpose of enabling some party thereto to raise money thereon: we have added an exception in section 80 in order to meet this case.

5. The draft Bill discarded days of grace: we have recognised this usage in sections 87 and 88 of the present Bill. The change has involved (in section 22) a slight alteration of the definition of "maturity."

6. The draft Bill also made all instruments which fell due upon a holiday payable on the next succeeding business day instead of, as in English law, on the next preceding business day, except in the case of a public holiday. We have in section 26 adhered to the English law, and have provided that, besides the usual public holidays, such days shall be public holidays within the meaning of the Act as the Local Government may declare.

7. The draft Bill made no provision for the case in which interest at a specified rate is expressly made payable on a note or bill. It merely provided that interest at the current rate should be payable on a bill dishonoured by non-acceptance, but only from the maturity of the instrument. The same rule was adopted in the case of dishonour by non-payment of a note, bill or cheque. We have substituted the English law on this subject by declaring (section 101) that, where interest is expressly provided for in the note or bill, it shall be calculated, as against all parties, at the specified rate from the date of the instrument until tender or realization of the amount due. Where no interest is specified we have declared (section 101), that, except in cases within section 532 of the Civil Procedure Code, interest shall run at six per cent. per annum from the date at which the amount ought to have been paid by the party charged. We have also added an explanation that an indorser can only be charged with such interest from the date of the receipt by him of notice of dishonour.

8. We have restored (section 117) the rule, which the draft Bill omitted, that a notice of dishonour must inform the party to whom it is given that he will be held liable.

9. The draft Bill provided that when a note, bill or cheque had been lost, or would not be produced by the owner, he might nevertheless enforce his claim against the maker or acceptor if he gave security, to the satisfaction of the Court, to indemnify the defendant against the claims of any other person upon the instrument. No provision was made for an action against the indorser. The English law, however, provides (17 & 18 Vict., c. 125, section 87=Act V of 1866, section 14) that, in *any* action upon a negotiable instrument, the loss of it shall not be set up as a defence if an indemnity is given, to the satisfaction of the Court, against the claims of any other person. And the owner of such a document was always entitled in equity to demand payment on giving a sufficient indemnity. We have, therefore, considered that we should correctly embody the English law by providing (section 103) that any person liable to pay and paying the amount due on a note, bill or cheque shall be entitled to be indemnified; and by leaving (section 8) the liability of all parties the same as if the instrument had been forthcoming.

10. The draft Bill extended to instruments payable to order the principle upon which protection is afforded by English law to the party primarily liable upon an instrument payable to bearer. The acceptor, maker or indorser of a negotiable instrument payable to bearer, but not of an instrument payable to order, is, by English law, discharged by payment to any person in possession of the instrument, if the payer has no reason to believe the possessor is not the true holder. We have in section 104, clause (*c*), restricted the protection to such instruments.

11. The Bill as now altered consists of fourteen chapters. In the first chapter we have inserted the usual preliminary matter. We have (section 1) excluded hundis from the operation of the Bill. We have provided (section 2) for the repeal of some enactments which are replaced by the provisions of the Bill.

12. Section 3 contains a definition of the term "banker" drawn from 39 & 40 Vict., *c.* 80, *s.* 3, and of "Notary Public." Notaries are seldom found in the Mufassal, and the Bill provides that their functions may be exercised by persons appointed for that purpose by the Governor General in Council.

13. Chapter II deals with notes, bills and cheques, bills in sets and crossed cheques. We have here substituted definitions which appear to be more comprehensive and accurate than those in the draft Bill. For instance, according to the original definitions, a bill of exchange differs from a cheque only in requiring that the money ordered by the instrument to be paid should be held at the disposal of the drawer—a distinction which appears to us inaccurate, as a bill of exchange is in law, equally with a cheque, assumed to be drawn against funds in the hands of the drawee. Again, the definition of a cheque would include such an instrument as a tradesman's bill on which the debtor writes an order to pay for presentation to a cash-keeper—the ordinary mode of paying bills in mercantile houses, at least in Calcutta, and one adopted by many private persons. According to the draft Bill such an instrument would apparently be negotiable—a very serious result indeed. Again, the definition of a cheque does not require that it should be drawn upon a banker or a person acting as such, nor that it should be payable on demand. These are only a few of what seemed to us the more obvious omissions. We have, therefore, framed definitions which we think will include all the essentials of these instruments.

14. Section 8 defines the holder of a promissory note, bill of exchange or cheque as a person entitled in his own name to the possession of it and to receive or recover the amount due thereon from the parties thereto. The holder of an instrument at the time of its loss or destruction also comes within the definition. The corresponding provision of the draft Bill seemed to us vague and unsatisfactory in its definition of "holder," and it was not consistently applied in the substantive provisions of the Bill.

15. In section 15 we have modified the definition of indorsement in the draft Bill by providing that it must be made for the purpose of negotiation. We have also included in the definition a like signature upon a stamped paper intended to be completed as a negotiable instrument.

16. We have added a section (17) providing, in accordance with English law, that, when an instrument may be construed either as a promissory note or bill of exchange, it shall be taken to be that which the holder elects.

17. In section 19 we have supplied an omission in the draft Bill by providing that an instrument in which no time for payment is specified and all cheques are payable on demand.

18. Section 20 provides for the filling up by the holder of blanks in a stamped paper intended to be completed as a negotiable instrument, but not completed when issued. The holder may complete the instrument for any amount covered by the stamp. To this section is added as an illustration section 9 of the draft Bill.

19. To the four presumptions as to negotiable instruments contained in the draft Bill and stated in section 27 of the present Bill, we have added presumptions that an accepted bill was accepted within a reasonable time after date and before maturity; that every bill or note receipted on the back was paid by the acceptor or maker, that is, by the party primarily liable to pay; and that a lost instrument was duly stamped.

20. In addition to the provisions of the draft Bill as to bills in sets, we have (section 29) provided for the right of that holder of one of the parts who first acquires title to his part to possession of the other parts. We have also defined an acceptor in section 7 so as to include an acceptor of a set of bills.

21. In sections 30 to 37 (both inclusive) we have substituted the provisions of the recent English Act (39 & 40 Vict., c. 81) for the sections of the draft Bill relating to crossed cheques.

22. Chapter III deals with the parties to negotiable instruments.

23. Section 38, after providing that all persons capable of contracting may be parties to notes, bills and cheques, adds that a minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

24. Section 39 provides for persons binding themselves through their authorized agents, and adds that a general authority is not sufficient for this purpose, and that an authority to draw a bill does not of itself authorize an indorsement.

25. Sections 41 and 42 provide for the liability of partners on notes, bills and cheques; and section 43 applies the provisions of the Indian Contract Act, sections 42, 43 and 45 and chapter XI, to the rights and liabilities of partners created thereby, as well as to joint rights and liabilities.

26. Section 45 defines the liability of the drawee of a bill or cheque.

27. Section 46 extends to the case of the maker of a note, a definition contained in section 60 of the draft Bill of the liability of the acceptor of a bill of exchange.

28. Section 47 adds to the category of persons who (according to section 61 of the draft Bill) can accept a bill, all or some of several joint drawees.

29. Section 49 provides that every prior party to a negotiable instrument is liable thereon to a holder in due course, that is, to a *bonâ fide* holder for value.

30. Section 50 lays down that the maker of a note or cheque, the drawer of a bill until acceptance, and the acceptor are ordinarily the principal parties to the bill and the other parties their sureties; and section 51 adds that each prior party is a principal as regards the holder, and that the intermediate parties between such prior party and the holder are sureties for him. By section 52 the provisions of the Indian Contract Act, sections 132 to 147 (both inclusive) are rendered applicable to these relations of suretyship.

31. We have added a section (54) estopping the maker of a note, the drawer of a bill or cheque and the acceptor of a bill for the honour of the drawer from denying the original validity of the instrument.

32. Section 55 adopts, with modifications, the provisions of section 117 of the Evidence Act, 1872, and of sections 36 and 62 of the draft Bill, which estop the acceptor from denying

the drawer's signature. The estoppel is, we think, properly confined by this section to suits by holders other than the drawer.

33. Section 56 estops the maker of a note and the acceptor of a bill payable to order from denying the payee's capacity to indorse.

34. Section 57 adds to the estoppel against denying false signatures, contained in section 35 of the draft Bill, an estoppel against denying the capacity to contract of any prior party to a negotiable instrument in suit.

35. Section 58 also carries on the same subject by declaring the acceptor of a bill with a forged indorsement not to be thereby relieved from liability if he knew it to be forged at the time of acceptance; and section 59 declares that the acceptor of a bill drawn in a fictitious name is not thereby relieved from liability to pay upon an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

36. These sections supply some omissions in the draft Bill, and, we think, adequately provide for the due currency of negotiable instruments when once put into circulation and for the protection of their holders.

37. The Bill then goes on to deal with the consideration for negotiable instruments and to protect the holder for value of instruments with respect to which there may have been originally no consideration, or a subsequent failure of consideration, wholly or in part.

38. These sections (60 to 63, both inclusive) are substantially taken from the draft Bill. We have added an illustration to section 62.

39. Chapter IV deals with negotiation.

40. To section 64, which is substantially the same as section 18 of the draft Bill, we have added an explanation to the effect that an instrument delivered upon a condition which has not happened is not negotiable except by a holder for value and without notice of such condition.

41. Where the holder of a note or bill payable to or to the order of a specified person delivers it to another person without indorsing it, but with intent to transfer his title thereto, we think that (with reference to the Code of Civil Procedure, sections 36 and 37) the transferee should not be required to sue in the name of his transferor. We have framed section 66 accordingly.

42. In section 67 we have, in substantial accordance with section 40 of the draft Bill, dealt with the case of a *bonâ fide* holder for value of a bill transferred without indorsement. In such a case we have declared the holder entitled to a return of the consideration if the bill is, after the transfer, avoided on account of any matter prior to the transfer, provided such return is claimed within a reasonable time.

43. Section 71 describes the parties who may indorse and negotiate negotiable instruments. The draft Bill does not appear to provide with sufficient clearness for this matter.

44. Section 76 embodies section 23 of the draft Bill: but it completes that section by enacting that an indorsement of a negotiable instrument for part of the amount due thereon transfers a right to retain the instrument and to receive and recover such part in the name of the indorser.

45. Section 77 provides that no agreement which is not expressed on the instrument or which is collateral thereto shall be binding upon holders for value or those deriving title from such holders. This section embodies and supplements the corresponding provisions of the draft Bill: of which section 42 provided that the title of an indorsee should not be affected by transactions independent of the instrument; and section 99 that a holder in due course should not be affected by any agreement between two signers as to the order of their liability unless such agreement appeared on the face of the instrument. The section as now drawn extends the draft sections to holders for value, and to holders deriving title from holders for value; and also extends section 99 to all agreements not expressed on the instrument.

46. Chapter V deals with presentment for acceptance and presentment for payment.

47. Section 82 states the essentials of presentment for acceptance in the case of bills payable at or after sight, to which the draft Bill, section 56, clause (1), refers as bills payable after demand. We have added a provision that presentment must be made by a person entitled to demand acceptance; and we have provided for the case in which the drawee cannot after reasonable search be found, and also for the case of a bill directed to the drawee at a particular place.

48. Section 83 provides for presentment for sight of a promissory note payable at a certain period after sight—a matter unnoticed by the draft Bill.

49. Section 84 alters section 56, clause (3), of the draft Bill by restricting the time allowed to the drawee for deliberation to the departure of the next post, if that should happen within the twenty-four hours otherwise allowed. This is the English rule upon the subject.

50. Sections 85 and 86 lay down the general rule for presentment for payment, which is not distinctly laid down in the draft Bill.

51. Section 87, as to presentment for payment of inland instruments payable after date or sight, embodies section 133 of the draft Bill; but we have excluded cheques from this section; as we have provided (section 19), in accordance with English law, that such instruments are only payable on demand.

52. Section 88 provides for presentment for payment of an inland note payable by instalments—a matter omitted from the draft Bill.

53. Section 90 modifies sections 139 and 140 of the draft Bill by requiring, in accordance with English law, that an instrument drawn or accepted payable at a specified place must,

in order to charge the maker or drawer, be presented for payment at that place. The draft Bill allows presentment to be made in such cases at the place of business or residence of the maker or acceptor.

54. Section 91 embodies the general rule as to the place of presentment.

55. Section 92 extends the rule in section 141 of the draft Bill as to personal presentment to the case of presentment for acceptance.

56. Section 93 taken together with section 105 embodies section 101 of the draft Bill, with the modification that the presentment of a cheque must be made before the relation between the drawer and his banker has been altered to the prejudice of the drawer, or the drawer will be discharged from liability. The draft Bill discharges the drawer only to the extent of his actual loss; but, according to the English cases, he is discharged altogether by such delay, the payee of the cheque being considered as having, by such delay, treated the cheque as payment, and as thereby electing to look to the drawee alone (see *Hopkins* v. *Ware*, L. R. 4 Ex. 268).

57. Section 96 is new. It provides that presentment for acceptance or payment may be made by or to a duly authorized agent, or the representative of a deceased party or the assignee of an insolvent party.

58. Section 98 states the cases in which presentment for payment is excused. It embodies sections 89 and 91 of the draft Bill; and adds the case in which the drawer could not suffer damage by want of presentment; in which case presentment is by English law not necessary as against him.

59. Chapter VI treats of payment and interest. Section 100 declares that payment should be made to the holder, for payment to any other party does not of itself discharge the maker or acceptor. The next two sections, 101 and 102, provide for interest upon notes, bills and cheques, and section 103 for indemnity to the payer of an instrument lost or which cannot be produced.

60. Chapter VII deals with discharge from liability on notes, bills and cheques.

61. Section 104 provides for the discharge of a maker, acceptor or indorser, not only when the holder cancels the acceptor's or indorser's name, and when the maker, acceptor or indorser pays the amount due (sections 38, 85, 87, and 88 of the draft Bill), but also where the holder releases or otherwise discharges the maker, acceptor or indorser.

62. Section 107 adopts the provisions of 16 & 17 Vict., c. 59, section 19 by which the drawer of a cheque payable to order and purporting to be indorsed by or on behalf of the payee is discharged by payment in due course.

63. To section 110, which embodies sections 109 and 110 of the draft Bill, we have added an explanation showing what are material alterations in a negotiable instrument.

64. Section 111 is new, and provides that in special cases, such as that of a blank stamped instrument, an uncrossed cheque and an instrument endorsed in blank, a material alteration made by an indorsee discharges his indorser from liability to him in respect of the consideration as well as of the instrument.

65. Section 113 embodies section 115 of the draft Bill and section 11 of 39 & 40 Vict., c. 81, relating to crossed cheques.

66. Chapter VIII treats of notice of dishonour.

67. Section 116 substantially agrees with sections 125, 127 and 131 of the draft Bill; but we have altered the description of the parties to whom notice of dishonour by non-acceptance or non-payment must be given: the description now adopted is that those parties must include all whom the holder seeks to make severally liable on the instrument, and some one of any parties jointly liable; but notice to the maker, drawee or acceptor is unnecessary.

68. Section 117 collects into one section a number of provisions as to the form of notice and the mode of giving it. These provisions are scattered over sections 126, 127, 128 and 130 of the draft Bill. We have already pointed out that this section differs from the draft Bill in requiring notice to the party addressed that he will be held liable.

69. Section 119 adds to section 132 of the draft Bill the provision that a party receiving notice of dishonour through his agent for presentment is entitled to the same period after such receipt for the purpose of giving notice as the holder has for giving notice.

70. Section 121 describes the cases in which no notice of dishonour is necessary. These cases include, besides those of dispensation by the party entitled to notice and of inability to give the notice (which are provided for in sections 66, 67, 68, 92 and 93 of the draft Bill), the case of the drawer countermanding payment; the case where the party charged could not suffer from want of such notice; the case of an acceptor who is also a drawer; the case of a promissory note which is not negotiable, and the case in which the party knowing the facts unconditionally promises to pay the amount due on the instrument.

71. Chapter IX contains the rules for noting and protest.

72. Section 122 substantially corresponds with section 119 of the draft Bill; but it allows the noting to be made either upon the instrument, or upon a paper attached thereto, or partly upon each. And the rules as to noting and protest are confined to bills and notes, whereas the draft Bill extended them to cheques—an extension for which there is apparently no authority.

73. We have inserted in sections 123 and 124 provisions regarding protest for better security.

74. In section 126 we have reproduced the provisions of Act VI of 1840, section 4, and of 2 & 3 Wm. 4, c. 98, as to protest for non-payment after dishonour by non-acceptance.

75. Chapter X contains rules for calculating the reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting. We have added in section 129 a provision that, in the case of notice of dishonour, when the parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

76. Chapter XI deals with acceptance and payment for honour. We provide (section 131) for the case of protest for better security. In accordance with a recent case (*In re Overend, Gurney and Company*, L. R. 6 Eq. 344), we have declared (section 136) that the payer for honour shall have all the rights, in respect of the bill, of the holder at the time of such payment.

77. Chapter XII, which treats of compensation, retains (section 137) the provisions of the draft Bill (section 65) substantially unaltered.

78. Chapter XIII treats of foreign bills and restricts to foreign bills the section (73) of the draft Bill, which deals with the dishonour of a bill naming a drawee in case of need.

79. The provisions of chapter XIV as to international law are substantially those of the draft Bill.

80. In conclusion, we desire to express our obligations to the following honourable and learned Judges, namely, Messrs. Turner, Kennedy, West and Nánábhái Haridás: to the Madras Chamber of Commerce: to Mr. Stewart Gladstone, Mr. R. Stewart, Mr. Dickson (late Secretary and Treasurer to the Bank of Bengal), and Mr. Scrymgeour, the Calcutta Agent of the Oriental Bank Corporation. We recommend that the Bill as now altered be republished in the *Gazette of India* and the local Gazettes, that the opinions of the Local Governments, the High Courts and the mercantile community be invited thereon, and that its further consideration be stayed till the Council re-assembles in Calcutta.

WHITLEY STOKES.
E. C. BAYLEY.
F. R. COCKERELL.

SIMLA;
The 4th October 1877.

APPENDIX.

From Secretary to Government of India, Financial Department, No. 2833, dated 3rd December 1867.

„ Chairman, Chamber of Commerce, Madras, dated 22nd October 1867.

„ Registrar, High Court, North-Western Provinces, No. 2541, dated 22nd November 1867.

Remarks by Secretary and Treasurer, Bank of Bengal.

From Junior Secretary to Government of Bengal, No. 4601, dated 30th December 1867, and enclosures.

„ First Assistant Resident, Haidarábád, No. 47, dated 12th December 1867, and enclosures.

„ Assistant Secretary to Government of Bengal, Legislative Department, No. 3, dated 14th January 1868.

„ Officiating Head Commissioner of Paper Currency, No. 388, dated 9th December 1867, and enclosures.

„ Secretary to Chief Commissioner, British Burma, No. 214—221, dated 21st January 1868, and enclosure.

„ Secretary to Government, North-Western Provinces, No. 284, dated 18th March 1868, and enclosures.

„ Under Secretary to Government, Bombay, No. 767, dated 13th March 1868, and enclosures.

„ Commissioner, Mysore, No. 7036—233, dated 11th March 1868, and enclosures.

„ Chief Secretary to Government, Madras, No. 1059, dated 9th July 1868, and enclosures.

Note by Edward Gay, Esq., dated 16th December 1867.

From Chief Commissioner, Oudh, No. 4396, dated 10th October 1868, and enclosures.

„ Secretary to Government, Panjáb, No. 1518, dated 20th November 1868, and enclosure.

„ Secretary to Government, Panjáb, No. 1582, dated 8th December 1868, and enclosure.

„ Bábu Piyári Chand Mittra, dated 6th January 1869.

„ Acting Under Secretary to Government, Bombay, No. 398, dated 4th February 1869, and enclosures.

„ Agents and Managers of certain Banks in Calcutta.

„ Acting Secretary to Government, Madras, No. 1198, dated 22nd July 1869, and enclosures.

„ Managers and Agents of certain Joint Stock Banks, Bombay, dated 21st October 1869.

No. II.

THE NEGOTIABLE INSTRUMENTS BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

4. Promissory Note.
5. Bill of Exchange.
6. Cheque.
7. Drawer, Drawee, Acceptor, Payee.
8. Holder.
9. Holder in due course.
10. Payment in due course.
11. Inland instrument.
12. Foreign instrument.
13. Negotiable instrument.
14. Negotiation.
15. Indorsement.
16. Indorsement in blank and in full.
    Indorsee.
17. Ambiguous instruments.
18. Amount stated differently in figures and words.
19. Instruments payable on demand.
20. Blank stamped instruments.
21. Subscribing to alternative liability.
22. Maturity.
23. At sight.
    After sight.
24. Date on which bill or note payable so many months after date or sight, or after a certain event, is at maturity.
25. Date on which bill or note payable so many days after date or sight, or after a certain event, is at maturity.
26. When day of maturity is a holiday.
27. Presumptions as to negotiable instruments.

Bills in sets.

28. Set of bills.
29. Holder of first acquired part entitled to all.

Crossed Cheques.

SECTIONS.

30. Cheque crossed generally.
31. Cheque crossed specially.
32. Crossing after issue.
33. Payment of cheque crossed generally.
    Payment of cheque crossed specially.
34. Payment of cheque crossed specially more than once.
35. Payment in due course of crossed cheque.
36. Payment of crossed cheque out of due course.
37. Cheque bearing "not negotiable."

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

38. Capacity to make, &c., promissory notes, &c.
    Minor.
39. Agency.
40. Liability of agent signing.
41. Acceptance by several drawees not partners.
42. When partnership bound by promissory notes, &c.
43. Partnership and joint rights and liabilities.
    Suretyship.
44. Liability of drawer.
45. Liability of drawee.
46. Liability of maker of note and acceptor of bill.
47. Only drawee can be acceptor except in need or for honour.
48. Liability of indorser.
49. Liability of prior parties to holder in due course.
50. Maker, drawer and acceptor principals.
51. Prior party a principal in respect of each subsequent party.
52. Suretyship.
53. Discharge of indorser's liability.
54. Estoppel against denying original validity of instrument.
55. Estoppel against denying drawer's signature.
56. Estoppel against denying capacity of payee to indorse.
57. Estoppel against denying signature or capacity of prior party.
58. Acceptor bound although indorsement forged.
59. Acceptance of bill drawn in fictitious name.
60. Party receiving consideration liable to subsequent parties.
61. Party not liable to one from whom no consideration moved.
62. Partial absence or failure of money-consideration.
63. Partial failure of consideration not consisting of money.

CHAPTER IV.

OF NEGOTIATION.

SECTIONS.

64. Negotiation by delivery.
65. Negotiation by indorsement.
66. Transfer without indorsement.
67. Liability of transferor without indorsement.
68. Conversion of indorsement in blank into indorsement in full.
69. Effect of indorsement.
70. Negotiability may be restricted or excluded.
71. Who may negotiate.
72. Indorser who excludes his own liability or makes it conditional.
73. Holder deriving title from holder in due course.
74. Instrument indorsed in blank.
75. Conversion of indorsement in blank into indorsement in full.
76. Indorsement for part of sum due.
77. Collateral agreements.
78. Legal representative cannot by delivery only negotiate instrument indorsed by deceased.
79. Instrument obtained by unlawful means or for illegal consideration.
80. Instrument acquired after dishonour or when overdue.
    Accommodation note or bill.
81. Instrument negotiable till payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

82. Presentment for acceptance.
83. Presentment of promissory note for sight.
84. Drawee's time for deliberation.
85. Presentment for payment.
86. Hours for presentment.
87. Presentment for payment of inland instrument payable after date or sight.
88. Presentment for payment of inland promissory note payable by instalments.
89. Presentment for payment of instrument payable at specified place and not elsewhere.
90. Instrument payable at specified place.
91. Presentment where no exclusive place specified.
92. Presentment when maker, &c., has no known place of business or residence.
93. Presentment of cheque to charge drawer.
94. Presentment of cheque to charge any other person.
95. Presentment of instrument payable on demand.

SECTIONS.

96. Presentment by or to agent, representative of deceased, or assignee of insolvent.
97. Posting instruments to be presented.
98. When presentment unnecessary.
99. Liability of banker for negligently dealing with bill presented for acceptance.

CHAPTER VI.

OF PAYMENT AND INTEREST.

100. To whom payment should be made.
101. Interest when rate specified.
102. Interest when no rate specified.
103. Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

104. Discharge from liability:
     by cancellation:
     by release:
     by payment.
105. Discharge by allowing drawee more than twenty-four hours to accept.
106. When cheque not duly presented and drawer damaged thereby.
107. Cheque payable to order.
108. Parties not consenting discharged by conditional or limited acceptance.
109. Alteration by stranger in note or bill.
110. Effect of material alteration.
111. Alteration by indorsee.
112. Acceptor or indorser bound notwithstanding previous alteration.
113. Payment of instrument on which alteration is not apparent.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

114. Dishonour by non-acceptance.
115. Dishonour by non-payment.
116. By and to whom notice should be given.
117. Mode in which notice may be given.
118. Party receiving must transmit notice of dishonour.
119. Agent for presentment.
120. When party to whom notice given is dead.
121. When notice of dishonour is unnecessary.

CHAPTER IX.

OF NOTING AND PROTEST.

122. Noting.
123. Protest.
     Protest for better security.

SECTIONS.
124. Contents of protest.
125. Notice of protest.
126. Protest for non-payment after dishonour by non-acceptance.

CHAPTER X.
OF REASONABLE TIME.
127. Reasonable time.
128. Reasonable time for presentment.
129. Reasonable time for giving notice of dishonour.
130. Reasonable time for transmitting such notice.

CHAPTER XI.
OF ACCEPTANCE AND PAYMENT FOR HONOUR.
131. Acceptance for honour.
132. Acceptance not specifying for whose honour it is made.
133. Liability of acceptor for honour.
134. When acceptor for honour may be charged.
135. Payment for honour.
136. Right of payer for honour.

CHAPTER XII.
OF COMPENSATION.
137. Rules as to compensation.

CHAPTER XIII.
OF FOREIGN BILLS.
138. Drawee in case of need.
139. Protest of foreign bills.

CHAPTER XIV.
OF INTERNATIONAL LAW.
140. Law governing liability of maker, acceptor or indorser of foreign instrument.
141. Law of place of payment governs dishonour.
142. Instrument made, &c., out of British India, but in accordance with its law.
143. Presumption as to foreign law.

SCHEDULE.

A Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

Preamble. Whereas it is expedient to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques; It is hereby enacted as follows:—

CHAPTER I.
PRELIMINARY.

Short title. **1.** This Act may be called "The Negotiable Instruments Act, 1877:"

Local extent. It extends to the whole of British India; but nothing in this Act applies to hundis;

Commencement. And it shall come into force on the first day of May, 1878.

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 thereof.

Interpretation-clause. **3.** In this Act—

"Banker." "Banker" includes persons or a corporation or company acting as bankers, and

"Notary Public." "Notary Public" includes also any officer appointed by the Governor General in Council to perform the functions of a Notary Public under this Act.

CHAPTER II.
OF NOTES, BILLS AND CHEQUES.

Promissory Note. **4.** A promissory note is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a person ascertainable when such undertaking is made, or to the bearer of the instrument.

Illustrations.

A signs instruments in the following terms:—

(*a*) "I promise to pay B or order Rs. 500."

(*b*) "I promise to account with B or order for Rs. 500 value received by me."

(*c*) "I acknowledge myself to be indebted to B in Rs. 1,000, to be paid on demand, for value received."

(*d*) "Mr. B, I O U Rs. 1,000."

The instruments respectively marked (*a*), (*b*) and (*c*) are promissory notes. The instrument marked (*d*) is not a promissory note.

Bill of exchange. **5.** A bill of exchange is an instrument in writing (not being a cheque) containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a person ascertainable when such order is given or to the bearer of the instrument.

Cheque. **6.** A cheque is an instrument in writing, containing an unconditional order, signed by the maker, directing a specified banker to pay a certain sum of money only to, or to the order of, a person ascertainable when such order is given, or to the bearer thereof.

"Drawer." "Drawee." **7.** The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee."

"Drawee in case of need." When the bill gives the name of any person in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Acceptor." After the drawee of a bill has signed his assent upon the bill, or if there are more parts thereof than one, upon one of such parts, and delivered the same, or

given notice of such signing, to the holder or to some person on his behalf, he is called the "acceptor."

"Acceptor for honour." When acceptance is refused and the bill is protested for non-acceptance, and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Payee." The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Holder." **8.** The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

"Holder in due course." **9.** "Holder in due course" means any person who became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable to, or to the order of, a payee, for valuable consideration before the amount mentioned in it became payable, and without having reason to believe that any defect existed in the title of the person from whom he derived his title.

"Payment in due course." **10.** "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that such person is not entitled to receive payment of the amount therein mentioned.

Inland instrument. **11.** A promissory note, bill of exchange or cheque drawn or made in British India, and made payable in, or drawn upon any person resident in, British India shall be deemed to be an inland instrument.

Foreign instrument. **12.** Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

"Negotiable instrument." **13.** A "negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to, or to the order of, a specified person, or to " or order," or to the bearer thereof.

Negotiation. **14.** When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

Indorsement. **15.** When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

Indorsement "in blank" and "in full." **16.** If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the whole or any part of the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full;" and the person so specified is called the "indorsee" of the instrument.

"Indorsee."

Ambiguous instruments. **17.** Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

Where amount is stated differently in figures and words. **18.** If the amount promised or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount promised or ordered to be paid.

Instruments payable on demand. **19.** A promissory note or bill of exchange, in which no time for payment is specified, and a cheque are payable on demand.

Blank stamped instruments. **20.** Where a stamped paper, which is intended to be completed as a negotiable instrument, is signed and delivered by a competent person as maker, drawer, acceptor or indorser, the holder thereof may complete the same by filling up any blanks therein, and the person so signing shall be liable upon such instrument, in the capacity in which he signed the same, for any amount which may be specified therein not exceeding the amount covered by the stamp thereon.

Illustration.

A stamped paper intended to be completed as a negotiable instrument is made payable to " or order:" the holder of such instrument may fill up the blank with his own name, or that of any other person.

Subscribing to alternative liability. **21.** Where a promissory note is signed by two persons, and it appears on the face of it that one of them subscribes only to an alternative liability, such one is not liable on the note as maker, but is liable as guaranteeing its payment by the maker.

"Maturity." **22.** The maturity of a promissory note, bill of exchange or cheque is the date at which it is payable.

"At sight." "After sight." **23.** In a promissory note or bill of exchange the expression "at sight" means on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and in a bill of exchange, after acceptance or protest for non-acceptance.

Date on which bill or note payable so many months after date or sight, or after a certain event, is at maturity. **24.** In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument

is dated or presented for acceptance or sight or the event happens. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations.

(*a*) A negotiable instrument dated 1st February is made payable at one month after date. The instrument is at maturity on the 1st of March.

(*b*) A negotiable instrument dated 29th January 1877 is made payable at one month after date. The instrument is at maturity on the 28th February 1877.

(*c*) A negotiable instrument dated 30th August 1877 is made payable three months after date. The instrument is at maturity on the 30th November 1877.

(*d*) A promissory note or bill of exchange, dated 31st August 1877, is made payable three months after date. The instrument is at maturity on the 30th November 1877.

25. In calculating the date at which a promissory note or bill of exchange, made payable a certain number of days after date or after sight or after a certain event, is at maturity, the day of the date, or of presentment for acceptance or sight, or on which the event happens, shall be excluded.

Date on which bill or note payable so many days after date or sight, or after a certain event, is at maturity.

26. When the day on which a promissory note, bill of exchange or cheque is at maturity is not a business day, the instrument shall be deemed to be due on the next preceding business day; but if the day of maturity is a public holiday, then on the next succeeding business day.

When day of maturity is a holiday.

Explanation.—The expression "public holiday" includes Sundays: New-Year's day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good-Friday; and any other day declared by the Local Government, by notification in the official Gazette, to be a public holiday within the meaning of this Act.

27. Until the contrary is proved, the following presumptions shall be made:—

Presumptions as to negotiable instruments;

(*a*) that every negotiable instrument was made, drawn, accepted, indorsed, negotiated and transferred for valuable consideration:

of valuable consideration;

(*b*) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity:

as to time of acceptance;

(*c*) that every transfer of a negotiable instrument was made before its maturity:

as to time of transfer;

(*d*) that every promissory note or bill of exchange receipted on the back was paid by the maker or acceptor thereof respectively:

as to payment;

(*e*) that the holder of a negotiable instrument is a holder in due course:

that holder is a holder in due course;

(*f*) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon:

as to order of indorsements;

(*g*) that a lost bill of exchange, promissory note or cheque was duly stamped.

as to stamp.

Bills in Sets.

28. Bill of exchange may be drawn in parts, each part being numbered and containing a condition that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Set of bills.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he is liable on each part as if it were a separate bill.

29. That holder of one of the parts, who first acquired title to his part, is entitled to the other parts of the same set.

Holder of first acquired part entitled to all.

Crossed Cheques.

30. Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed generally.

31. Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Cheque crossed specially.

32. Where a cheque is uncrossed, the holder may cross it generally or specially.

Crossing after issue.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection.

33. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed generally.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of cheque crossed specially.

34. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment of cheque crossed specially more than once.

35. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all

Payment in due course of crossed cheque.

respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

36. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same shall be crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Payment of crossed cheque out of due course.

37. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Cheque bearing "not negotiable."

But a banker who has in good faith and without negligence received payment from a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

38. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Capacity to make, &c., promissory notes, &c.

A minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

Minor.

39. Every person capable of binding himself or of being bound, as in the last preceding section mentioned, may so bind himself or be bound by a duly authorized agent acting in his name.

Agency.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

40. An agent who signs his name to a promissory note, bill of exchange or cheque, without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who know that he signed as agent, or that he had no such intention.

Liability of agent signing.

41. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

Acceptance by several drawees not partners.

42. When it is within the scope of the business of a partnership to make, draw, accept, indorse or negotiate promissory notes, bills of exchange or cheques, any partner may bind his firm by making, drawing, accepting, indorsing or negotiating such instruments in the name of his firm, but not otherwise.

When partnership bound by promissory notes, &c.

Exception.—A partner may bind his firm by accepting in his own name, for partnership purposes, a bill drawn upon the firm.

43. In the absence of a contract to the contrary, the provisions of the Indian Contract Act, 1872, sections 42, 43 and 45, and those of chapter XI of the same Act shall respectively apply to all joint rights and liabilities created by promissory notes, bills of exchange and cheques, and to the rights and liabilities thereon of partners.

Partnership and joint rights and liabilities.

44. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder for any loss or damage caused thereby, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

Liability of drawer.

45. The drawee of a bill of exchange or cheque, having sufficient funds of the drawer in his hands properly applicable to the payment of such bill or cheque, must accept the bill or pay the cheque when duly required so to do, and, in default of such acceptance or payment, must compensate the drawer for any loss or damage caused by such default.

Liability of drawee.

46. Except as provided in sections 38, 61, 62, 63, 79, 85, 89, 90, 104 and 109, and in the absence of a contract to the contrary,—

Liability of maker of note and acceptor of bill.

(*a*) the maker of a promissory note and the acceptor before maturity of a bill of exchange, are bound to pay the amount thereof according to the apparent tenor of the note or acceptance respectively, and

(*b*) the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party thereto for any loss or damage sustained by him, and caused by such default.

47. No person except the drawee of a bill of exchange, or all or some of several joint drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Only drawee can be acceptor except in need or for honour.

48. Except as provided in sections 38, 61, 62, 63, 75, 76, 79, 82, 83, 85, 89, 93, 104, 105, 106, 108, 109, 110 and 121, clause (*a*), and in the absence of a contract to the contrary, every person who indorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or

Liability of indorser.

damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Every indorser after dishonour is liable as upon an instrument payable on demand.

49. Every prior party to a negotiable instrument is liable thereon to a holder in due course.

Liability of prior parties to holder in due course.

50. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, as between themselves and any other parties thereto, in the absence of any contract to the contrary between themselves and such parties, liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for them.

Maker, drawer and acceptor principals.

51. Every prior party to a negotiable instrument is, as between himself and the holder thereof, in the absence of any contract to the contrary between himself and the holder, liable thereon as a principal debtor, and the parties thereto, subsequent to him and prior to such holder, are liable to the holder as sureties for such prior party.

Prior party a principal in respect of each subsequent party.

Illustration.

A draws a bill on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

52. The provisions of sections 132 to 147, both inclusive, of the Indian Contract Act, 1872, shall apply to the relations of suretyship between parties to negotiable instruments.

Suretyship.

53 The indorser of a negotiable instrument is not discharged from his liability thereupon by the holder having merely forborne to sue a prior party; but where the holder, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Discharge of indorser's liability.

Illustration.

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank :—

First indorsement, "John De Souza."
Second indorsement, "Peter Williams."
Third indorsement, "Wright and Co."
Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out the indorsements by Peter Williams and Wright and Co. A is not entitled to recover anything from John Rozario.

54. No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon, be permitted to deny the validity of the instrument as originally made or drawn.

Estoppel against denying original validity of instrument.

55. No acceptor of a bill of exchange shall, in a suit thereon by a holder other than the drawer, be permitted to deny that the bill was drawn by the person by whom it purports to have been drawn.

Estoppel against denying drawer's signature.

56. No maker of a promissory note and no acceptor of a bill of exchange payable to, or to the order of, a specified person shall, in a suit thereon, be permitted to deny the capacity of the payee thereof to indorse the same.

Estoppel against denying capacity of payee to indorse.

57. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

Estoppel against denying signature or capacity of prior party.

58. An acceptor of a bill of exchange is not relieved from liability, by reason that an indorsement thereon is forged, if he knew or had reason to believe such indorsement to be forged when he accepted the bill.

Acceptor bound although indorsement forged.

59. An acceptor of a bill of exchange drawn in a fictitious name is not, by reason that such name is fictitious, relieved from liability to any holder claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

Acceptance of bill drawn in fictitious name.

60. If at any time there has been valuable consideration between any parties to a negotiable instrument for the making, drawing, acceptance, indorsement, negotiation or transfer thereof, the party receiving such consideration is, except as provided in sections 38, 62, 63, 75, 82, 83, 85, 89, 90, 93, 104, 105, 106, 107, 108, 109, 110 and 111, and in the absence of any contract to the contrary, liable upon the instrument to all subsequent parties thereto, and every subsequent holder is a holder for consideration.

Party receiving consideration liable to subsequent parties.

Illustrations.

(*a*) A indorses a bill of exchange to B, at the request of C, for C's account with B. B is a holder of the bill for consideration, and if he indorses it as a present to D, D is a holder for consideration.

(*b*) A, the holder of a negotiable instrument, indorses it in full to B, in the belief that B has done something which he has not done. B, for consideration, indorses the instrument in blank to C, and C indorses it to D. D is a holder of the instrument for consideration.

(*c*) A, the holder of a negotiable instrument indorses it in full to B, in the belief that B has done something which he has not done. B, for consideration proceeding from C, indorses the instrument in blank to C, and C indorses it to D, D strikes out C's indorsement. D is a holder of the instrument for consideration.

61. When there was no consideration for the making, drawing, acceptance or indorsement of a negotiable instrument, or when the consideration has wholly failed, the maker, drawer, acceptor or indorser is not liable thereon to the party in whose favour the instrument was so made, drawn, accepted or indorsed, or to any party claiming through such party, unless valuable consideration moved from the claimant or from some party through whom he derives title. But the maker, drawer, acceptor or indorser is liable to compensate any subsequent party who, being liable on such instrument, pays the amount due thereon.

Party not liable to one from whom no consideration moved.

62. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Partial absence or failure of money-consideration.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque, stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration.

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

63. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is readily ascertainable in money, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him, is proportionally reduced.

Partial failure of consideration not consisting of money.

CHAPTER IV.

OF NEGOTIATION.

64. Subject to the provisions of section 79, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Negotiation by delivery.

Exception.—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice) unless such event happens.

Illustrations.

(*a.*) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(*b.*) A, the holder of a negotiable instrument payable to bearer which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

65. Subject to the provisions of section 79, a promissory note, bill of exchange or cheque payable to, or to the order of, a specified person is negotiable by the holder by indorsement and delivery thereof.

Negotiation by indorsement.

66. If the holder of such an instrument as in the last preceding section mentioned, delivers it to another person without indorsing it, but with intent to transfer his title thereto, the transferee acquires by such delivery all the rights which the transferor had as holder except the right of negotiation, and he may sue upon the instrument in his own name.

Transfer without indorsement.

67. If such transfer, as in the last preceding section mentioned, is made for valuable consideration to a person having no reason to believe in the existence of any matter affecting the validity of the instrument or of the transfer thereof, and the instrument is thereafter avoided as against any party on account of matters prior to such transfer, the transferor is bound to return to the transferee the consideration received, provided that such return is claimed within a reasonable time.

Liability of transferor without indorsement.

68. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

Conversion of indorsement in blank into indorsement in full.

69. The indorsement of a negotiable instrument transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, be restrained to a transfer of the property without such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

Effect of indorsement.

70. The indorser of a negotiable instrument may, by express words in the indorsement, restrict or exclude the right of the indorsee to negotiate the instrument, although the instrument was, at the time of such words being written, payable to the bearer thereof.

Negotiability may be restricted or excluded.

Illustrations.

B signs the following indorsements on different negotiable instruments :—

(*a*) "Pay the contents to C only."

(*b*) "Pay C for my use."

(*c*) "Pay C or order for the account of B."

(*d*) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

(*e*) "Pay C."

(*f*) "Pay C value in account with the Oriental Bank."

(*g*) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not exclude the right of further negotiation by C.

71. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded, as in the last preceding section mentioned, indorse and negotiate the same.

Who may negotiate.

Explanation.—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration.

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order," or any equivalent words. B may negotiate the instrument.

72. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon, depend upon the happening of a specified event, although such event may never happen.

Indorser who excludes his own liability or makes it conditional.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations.

(*a.*) The indorser of a negotiable instrument signs his name, adding the words—

"Without recourse to me."

Upon this indorsement he incurs no liability.

(*b.*) A, the payee and holder of a bill of exchange, indorses it to B, and B to C. C then indorses it back to A, each of these indorsements being in due course. A is reinstated in his former rights upon the instrument, but has not acquired any rights against B or C.

(*c.*) A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

73. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Holder deriving title from holder in due course.

74. A negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Instrument indorsed in blank.

75. If a negotiable instrument after having been indorsed in blank is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Conversion of indorsement in blank into indorsement in full.

76. Where a negotiable instrument is indorsed for part of the sum due thereon to the indorser, the indorsement transfers only a right to retain the instrument, and to receive or sue for such part in the name of the indorser.

Indorsement for part of sum due.

77. No agreement between any parties to a negotiable instrument which is not expressed thereon, or which is collateral thereto, is binding upon any other holder thereof for valuable consideration, or upon any holder deriving title from a holder for valuable consideration.

Collateral agreements.

Illustration.

A person who is a creditor of A signs, as acceptor, a bill of exchange in A's favour for 3,000 rupees. A being the holder indorses it for value to B, who is aware that the acceptor was a creditor of A. A's debt to the acceptor cannot be set off against B's claim on the bill.

78. The legal representative of a deceased person cannot negotiate by delivery a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

Legal representative cannot by delivery only negotiate instrument indorsed by deceased.

79. When a negotiable instrument has been lost, or has been obtained from any maker, acceptor or holder thereof by unlawful means, or for an illegal consideration, no possessor or indorsee, who claims through the person who so obtained the instrument, is entitled to receive the amount due thereon from such maker, acceptor or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

Instrument obtained by unlawful means or for illegal consideration.

80. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only the rights thereon of his transferor:

Instrument acquired after dishonour or when overdue.

Provided that any person who, in good faith and for valuable consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Accommodation note or bill.

Illustration.

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

81. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

Instrument negotiable till payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

82. A bill of exchange payable at or after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment for acceptance.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he has absconded, the bill is dishonoured.

83. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight, by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment

Presentment of promissory note for sight.

no party thereto is liable thereon to the person making such default.

84. The drawee of a bill of exchange presented to him for acceptance may retain the same until the end of twenty-four hours, or until the next post to the holder, whichever first happens, to consider whether he will accept it.

Drawee's time for deliberation.

Explanation.—In calculating the twenty-four hours mentioned in this section, days which are not business days shall be excluded.

85. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Presentment for payment.

Exception.—No presentment is necessary of a promissory note payable on demand in order to charge the maker thereof.

86. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Hours for presentment.

87. An inland promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment within three days after the end of such period.

Presentment for payment of inland instrument payable after date or sight.

88. An inland promissory note payable by instalments must be presented for payment within three days after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Presentment for payment of inland promissory note payable by instalments.

89. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party, thereto, be presented for payment at that place.

Presentment for payment of instrument payable at specified place and not elsewhere.

90. A promissory note or bill of exchange made drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Instrument payable at specified place.

91. A promissory note or bill of exchange, not made payable as in the last two preceding sections mentioned, must be presented for payment at one of the places specified (if any), or at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be.

Presentment where no exclusive place specified.

92. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment when maker, &c., has no known place of business or residence.

93. A cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn within a reasonable time after it was first received from the drawer, or before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Presentment of cheque to charge drawer.

94. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after receipt thereof from such person.

Presentment of cheque to charge any other person.

95. A negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Presentment of instrument payable on demand.

96. Presentment for acceptance or payment may be made by or to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or where he has died, to his legal representative, or where he has been declared an insolvent, to his assignee.

Presentment by or to agent, representative of deceased, or assignee of insolvent.

97. When the holder of a promissory note, bill of exchange or cheque, and the maker, acceptor or drawee reside in different places, the instrument may be forwarded by post for the purpose of being presented for payment. In such case, when there is a daily post, the instrument must be posted at some time not later than the last post on the day following that on which the holder has received such instrument; and the person receiving such instrument by the post must present it not later than the day following its receipt; where there is not a daily post, the instrument must be forwarded and presented within a reasonable time.

Posting instruments to be presented.

98. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:—

When presentment unnecessary.

(*a*) if the maker, drawee or acceptor closes his place of business,

or cannot after reasonable search be found,

or intentionally prevents the presentment of the instrument,

or access to him cannot be obtained during business hours;

(*b*) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment;

(*c*) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

99. When a bill of exchange, accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently keeps,

Liability of banker for negligently dealing with bill presented for acceptance.

deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

CHAPTER VI.

OF PAYMENT AND INTEREST.

100. Subject to the provisions of section 104, clause (*c*), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

To whom payment should be made.

101. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount and from the date of the instrument, until tender or realization of the amount due thereon.

Interest when rate specified.

102. When no rate of interest is specified in the instrument, interest on the amount thereof shall, except in cases provided for by the Code of Civil Procedure, section 532, be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon.

Interest when no rate specified.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

103. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

104. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

Discharge from liability;

(*a*) to a holder thereof cancelling such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;

by cancellation;

(*b*) to a holder thereof otherwise discharging such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;

by release;

(*c*) to all parties thereto, if the instrument is payable to bearer, and such maker, acceptor or indorser pays in due course the amount due thereon.

by payment.

105. If the holder of a bill of exchange allows the drawee more than twenty-four hours to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

Discharge by allowing drawee more than twenty-four hours to accept.

106. When a cheque has not been duly presented for payment, and the drawer thereof has thereby sustained loss or damage, he is discharged from liability to the holder making default in presentment.

When cheque not duly presented and drawer damaged thereby.

107. Where a cheque, payable to order, purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Cheque payable to order.

108. If the holder of a bill of exchange acquiesces in a conditional acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which is not signed by all the drawees (not being partners), all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him.

Parties not consenting discharged by conditional or limited acceptance.

109. Alterations made in a promissory note or bill of exchange by a person not a party to such note or bill have no effect upon the liability of a party who signed the instrument as maker or acceptor before such alterations were made.

Alterations by stranger in note or bill.

110. Save as provided in sections 20, 32, 68 and 108, any material alteration of a negotiable instrument renders the same void as against any party thereto at the time, and not consenting to such alteration, unless such alteration was made in order to carry out the common intention of the original parties.

Effect of material alteration.

Explanation.—The following are material alterations within the meaning of this section, namely: an alteration of date, amount, or of time or place of payment; the insertion in the body of the instrument of words authorising the transfer thereof, or stating the value thereof to have been received on a particular account; the addition of a name as that of a maker or drawer; obliteration of, addition to, or alteration of, the crossing of a cheque.

111. Save as last aforesaid, any such alteration as in the last preceding section mentioned, if made by an indorsee, discharges his indorser from all liability to him in respect of the instrument or the consideration thereof.

Alteration by indorsee.

112. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Acceptor or indorser bound notwithstanding previous alteration.

113. Where a promissory note, bill of exchange or cheque has been materially altered, but does not appear to have been so altered, or where a cheque has been crossed but does not appear to have been crossed, payment thereof by a person or banker liable to pay and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker so paying from all liability thereon, and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

Payment of instrument on which alteration is not apparent.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

114. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill.

Dishonour by non-acceptance.

115. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill, or drawee of the cheque makes default in payment upon being duly required to pay the same.

Dishonour by non-payment.

116. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

By and to whom notice should be given.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note, or the drawee or acceptor of the dishonoured bill of exchange or cheque.

117. Notice of dishonour may be given by or to a duly authorised agent of the person by or to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business, or (in case such party has no place of business) at the residence, of the party for whom it is intended.

Mode in which notice may be given.

If the notice is sent by post and miscarries, such miscarriage does not render the notice invalid.

118. Any party receiving notice of dishonour must, in order to charge any prior party, transmit it to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 116.

Party receiving must transmit notice of dishonour.

119. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

Agent for presentment.

120. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

When party to whom notice given is dead.

121. No notice of dishonour is necessary—

When notice of dishonour is unnecessary.

(*a*) when it is dispensed with by the party entitled thereto;

(*b*) in order to charge the drawer, when he has countermanded payment;

(*c*) when the party charged could not suffer damage from want of notice;

(*d*) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;

(*e*) to charge the drawers, when the acceptor is also a drawer;

(*f*) in the case of a promissory note which is not negotiable;

(*g*) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

CHAPTER IX.

OF NOTING AND PROTEST.

122. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument or upon a paper attached thereto, or partly upon each.

Noting.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if not expressly dishonoured, the reason why the holder treats the instrument as dishonoured, and the notary's charges.

123. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such fact to be noted and certified by a notary public. Such certificate is called a protest and shall, in the absence of proof to the contrary, in a suit upon the instrument, be deemed evidence of the fact of dishonour.

Protest.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

Protest for better security.

124. A protest under section 123 must contain—

Contents of protest.

(*a*) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;

(*b*) the name of the person for whom and against whom the instrument has been protested;

(*c*) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;

(*d*) when the note or bill has been dishonoured, the place and time of dishonour, and when better security has been refused, the place and time of refusal;

(*e*) the subscription of the notary public making the protest;

(*f*) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

125. When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

Notice of protest.

126. All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before maturity.

Protest for non-payment after dishonour by non-acceptance.

CHAPTER X.

OF REASONABLE TIME.

127. In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and in calculating such time, days which are not business days shall be excluded.

Reasonable time.

128. Presentment is made within a reasonable time, within the meaning of sections 82, 93, 94 and 95, if it is made on the business day next after that on which the holder received the bill, negotiable instrument or cheque referred to, or when there is no more delay than is occasioned by the residence of the parties to the bill, negotiable instrument or cheque in different places.

Reasonable time for presentment.

Illustration.

A draws on B, resident at Calcutta, a bill of exchange in favour of C payable at sight, and sends it to C at Benares. C, the day after he receives it, indorses it to D, and despatches it to D at Calcutta. D, the day after he receives the bill, presents it for payment. The delay which has taken place in presenting the bill is not unreasonable.

129. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

Reasonable time for giving notice of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

130. A party receiving notice of dishonour transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

Reasonable time for transmitting such notice.

CHAPTER XI.

OF ACCEPTANCE AND PAYMENT FOR HONOUR.

131. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

Acceptance for honour.

132. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

Acceptance not specifying for whose honour it is made.

133. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not; and such party, and all prior parties, are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

Liability of acceptor for honour.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

134. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment and has been dishonoured by him, and noted or protested for such dishonour.

When acceptor for honour may be charged.

135. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

Payment for honour.

136. Any person so paying, as in the last preceding section provided, is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

Right of payer for honour.

CHAPTER XII.

OF COMPENSATION.

137. The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall (except in cases provided for by the Code of Civil Procedure, section 532) be determined by the following rules:—

Rules as to compensation.

(*a*) The holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it;

(*b*) When the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;

(*c*) An indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment;

(*d*) When the person charged and the indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;

(*e*) The party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII.

OF FOREIGN BILLS.

138. Where a drawee in case of need is named in a foreign bill of exchange, the bill is not dishonoured until dishonoured by such drawee.

Drawee in case of need.

139. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

Protest of foreign bills.

CHAPTER XIV.

OF INTERNATIONAL LAW.

140. In the absence of a contract to the contrary, the liability of the maker of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument: the liability of the acceptor, by the law of the place where he accepted the instrument: the liability of the indorser, by the law of the place where he indorsed the instrument.

Law governing liability of maker, acceptor or indorser of foreign instrument.

Illustration.

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is endorsed in British India, and is dishonoured. An action on the bill is brought against B in British India. He is liable to pay interest at the rate of 6 per cent. only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

141. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Law of place of payment governs dishonour.

Illustration.

A bill of exchange drawn and indorsed in British India, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

142. If a negotiable instrument is made, drawn, accepted, or indorsed out of British India, but in accordance with the law of British India, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or endorsement made thereon in British India.

Instrument made, &c., out of British India, but in accordance with its law.

143. Until the contrary is proved, the law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of British India.

Presumption as to foreign law.

SCHEDULE.

No. and year.	Title.	Extent of repeal.
VI of 1840 ...	An Act for the amendment of the law concerning the negotiation of Bills of Exchange.	The whole.
V of 1866 ...	An Act to amend in certain respects the Commercial Law of British India.	Sections 11, 12 and 13.
I of 1872 ...	Indian Evidence Act.	Section 117 so far as relates to bills of exchange.
XV of 1874 ...	Laws local extent ...	So much of the first Schedule as relates to Act VI of 1840 and to Act V of 1866, ss. 11, 12 and 13.

A. PHILLIPS,

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 17th October 1877, and was referred to a Select Committee :—

No. 18 OF 1877.

A Bill to amend the North-Western Provinces Land-Revenue Act, 1873.

Preamble. For the purpose of amending the North-Western Provinces Land-Revenue Act, 1873, it is hereby enacted as follows :—

Addition to Act XIX of 1873, s. 29. **1.** To section 29 of the same Act the following clause shall be added :—

"EXPLANATION.—Charges incurred in the preparation of village-maps shall be deemed to be charges within the meaning of this section."

Amendment of Act XIX of 1873, s. 194. **2.** In section 194 of the said Act, for the words "otherwise rendered" the words "declared by the Local Government" shall be substituted.

Amendment of Act XIX of 1873, s. 199. **3.** To section 199 of the same Act the following clause shall be added (namely):—

"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."

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill, which has been recommended by the Local Government, is to deprive persons whose estates are under the management of the Court of Wards of power to charge or alienate those estates. The opportunity has been taken to make a slight improvement in the wording of section 194 of the North-Western Provinces Land-Revenue Act, 1873, and to remove a doubt as to the power of applying the patwárí-fund raised under section 29 to defray the cost of preparing those village-maps, on which the correctness of the Patwárí's records mainly depends.

SIMLA; *The 13th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

[First publication.]

The following Report of the 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 17th October 1877 :—

We, the undersigned Members of the Select Committee to which the Bill to amend the law relating to the management and preservation of Government forests, to the transit of forest produce and to the duty leviable on timber was referred, have the honour to report that we have considered the Bill and the papers specified in the margin.

From the Department of Revenue, Agriculture and Commerce, No. 1139, dated 21st October 1876.
" Secretary to Chief Commissioner, Assam, No. 3779, dated 16th November 1876.
" Assistant Secretary to Government of Bengal, No. 3822, dated 1st December 1876, and enclosures.
" the Department of Revenue, Agriculture and Commerce, No. 1341, dated 15th December 1876, and enclosures.
" Officiating Secretary to Chief Commissioner, Central Provinces, No. $\frac{4738}{222}$, dated 16th December 1876, and enclosures.
" the Department of Revenue, Agriculture and Commerce, No. 1392, dated 30th December 1876, and enclosures.
Despatch from the Secretary of State for India, No. 50, dated 14th December 1876.
From Officiating Secretary to Chief Commissioner, Coorg, No. 695—1, dated 15th January 1877, and enclosure.
" Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. $\frac{184}{2}$, dated 19th January 1877, and enclosure.
" Officiating Under Secretary to Government, Panjáb, No. 39 F, dated 31st January 1877, and enclosures.
" Officiating Secretary to Government, Panjáb, No. 54 F, dated 6th February 1877, and enclosures.
" Chief Secretary to Government, Bombay, Revenue Department, No. 967, dated 15th February 1877, and enclosures.
" Secretary to Government, Public Works Department, North-Western Provinces, No. 40 F, dated 19th February 1877, and enclosures.
" Officiating Secretary to Chief Commissioner, Coorg, No. 756—2, dated 17th February 1877, and enclosure.
" Secretary to Chief Commissioner, British Burma, No. 35—31, dated 2nd February 1877, and enclosures.
" Acting Secretary to Government, Fort St. George, No. 2149, dated 23rd December 1876, and enclosures.
" Officiating Secretary to Government, Panjáb, No. 138 F, dated 5th April 1877, and enclosure.
" Officiating Chief Secretary to Government of Madras, No. 892, dated 7th April 1877,
" Officiating Secretary to Government, Panjáb, No. 231 S, dated 18th July 1877, and enclosures.
Despatch from the Secretary of State for India, No. 41, dated 5th July 1877.
From the Department of Revenue, Agriculture and Commerce, No. 1264 F, dated 6th October 1877, and enclosure.
Note by the Hon'ble T. C. Hope, dated 9th October 1877.

2. As Act VII of 1865 has never been extended to Madras or Bombay, and much confusion and uncertainty might be created by its continuing in force in so far as not superseded by the present Bill, we have provided (section 1) for its repeal, as also that of Acts VII of 1869 and XIII of 1873, in any territories to which the present Bill may be extended.

We have also provided that such extension shall be of the whole Bill, and not of parts only since it will always remain optional with Local Governments to exercise or not the powers which any chapter or section confers.

3. We have improved the definitions of "Forest-officer" and "Forest-produce," and have assimilated that of "cattle" to the definition in the Cattle Trespass Act.

4. In order to avoid the delay and expense of an elaborate preliminary demarcation, which was objected to in many quarters, we have provided (section 4) that the notification of the proposal to constitute a Reserved Forest may be in general terms, but have indicated more clearly (section 19) that the final demarcation must be precise.

5. We have made more clear (section 4) the intention that the Forest Settlement Officer should not, except under very exceptional circumstances, be a Forest-officer. But, in deference to representations from British Burma and the North-West Provinces, we have provided an option of entrusting the forest settlement to two or three officers instead of one.

6. In order to meet the case of the wild tribes and illiterate persons who will in many instances be the possessors of rights over forest lands, we have allowed (section 6) claims to be preferred orally to the Forest Settlement Officer and made it obligatory on him to take such statements down in writing.

7. With the same view we have required (section 7) the Forest Settlement Officer to inquire into the existence of rights, by searching the Government records and taking evidence, even though the people themselves, through ignorance or neglect, may not appear to claim them.

8. We have also provided (section 9) for the hearing of claims not preferred within the time prescribed by section 6, whenever claimants can shew sufficient cause for their delay.

9. In section 10 we have made more clear the alternative courses which may be pursued in the case of claims to or over land, and have also provided for compensation being given wholly or partly in land where the parties prefer land to money.

10. From section 12 the provisions contained in section 10 of the Bill as introduced for the rejection of rights which were not habitually exercised by the claimants at the time of the notification under section 4, or which were not required for the beneficial use of the land or premises or of the person claiming the same, have been omitted.

11. Sections 16 and 17 express more clearly than section 15 of the Bill as introduced the intention of the latter as to the authorities by whom and the manner in which appeals are to be heard.

12. We have made a new provision (section 21) for the revision by the Local Government, at any time not exceeding five years from the date of the Notification under section 19, of any settlement effected under section 14 which experience has shewn to be unworkable.

13. We have provided (section 24) that rights appendant to any land or house may be freely alienated therewith.

14. Section 28 has been amended in phraseology, so as to admit of forests, the use of which is essential to village communities, or in which such communities have rights jointly with Government, being assigned to such communities, under suitable precautions against waste or misappropriation.

15. In section 32 of the Bill as introduced it was provided that the provisions of chapter IV, regarding district or (as we prefer to term them) Protected forests, should be without prejudice to all existing rights of individuals or communities. In order, however, that holders of rights may not be put to the inconvenience and expense of proving them in order to establish their immunity from the restrictions of the chapter, we have provided (section 29) that no land shall be constituted a Protected Forest unless the nature and extent of the rights of Government and other persons in it have been enquired into and recorded at a survey or settlement or in some other sufficient manner. At the same time it has been left open to any person to dispute the correctness of such record.

16. In section 30 we have inserted a provision to permit of the closing of portions of a Protected Forest for a limited period, provided the remainder of the forest be sufficient and convenient for the exercise of rights thus temporarily suspended in the portion closed. This provision is in accordance with the rules in the North-West Provinces made under the existing law, and is generally considered necessary for purposes of renovation.

17. In section 32 we have given power to make rules to regulate the exercise of recorded rights, so as to prevent, in the interest of the community, waste and injury to the forest.

18. In order to preclude hardship to the owners of private forests from the operation of chapter V, we have enabled such owners (section 37) to require the Government to acquire the land, either to administer such land as a Reserved or Protected Forest, or to apply to it all or any of the provisions of the Bill. This improvement has been made at the suggestion of the Panjáb Government, with special reference to sacred and other private forests in that province; but we have reason to believe that the option of obtaining for their forest property the same legal protection, and also (if desired) the same skilled administration, as the Government provides for its own, is likely to be welcomed by the owners of rent-free estates and other private property in many parts of India.

20. We have restricted (section 39) the power of levying a duty on timber produced in British India to timber in respect of which the Government has any rights. The holders of lands under lákhiráj, inámi or other tenures in which forest rights are included will thus not be interfered with. We have likewise validated the levy of such duties now existing, which are numerous in certain parts of India.

21. In section 45 we have empowered the Local Government to exempt any particular class of timber from the operation of the section, partly in order not to interfere with the collection of drift wood for fuel, which is common among the poorer classes in certain localities.

22. We have recast the earlier sections of chapter IX, so as to bring them into closer conformity with similar provisions in other special laws.

23. In section 63 we have inserted a provision that no person shall be arrested for any act which is an offence under chapter IV, excepting for a violation of a prohibition under clause (*c*) of section 30.

24. In section 67 we have restricted the power of Forest-officers, as regards compounding, to the receipt of compensation for damage committed.

25. We have enlarged section 73 by empowering the Local Government to make rules regarding the rewards to be paid to officers and informers out of the proceeds of fines and confiscations, and for the preservation, reproduction and disposal of trees and timber belonging to Government but grown on lands belonging to, or in the occupation of, private persons.

26. We have inserted a new section (77) to enable the Government to enforce service in cases where persons are entitled to a share in the produce of forests on the condition of duly performing service in connection with such forests.

27. We have carefully considered the objections made by the Government of Madras to the original draft of the Bill which was circulated previous to its introduction into the Council. We are of opinion that the improvements which have now been made in both the language and matter of the Bill are so material as substantially to meet these objections, some of which were based on a misapprehension of what was intended. It appears to us that the Bill, especially considering the latitude for meeting local peculiarities which the power of making rules affords, is now not unsuitable to the circumstances of the Madras Presidency, and is such as might be accepted by the Local Government. At the same time, being permissive in its application, it contains nothing to prevent separate local legislation, if that course should be eventually preferred.

28. The publication ordered by the Council has taken place; but we consider republication to be desirable.

29. We recommend that the Bill as now amended be passed.

SIMLA;
The 17th October 1877.

T. C. HOPE.
R. E. EGERTON.
A. J. ARBUTHNOT.
WHITLEY STOKES.
F. R. COCKERELL.

No. II.

THE INDIAN FOREST BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.
PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
Extension.
2. Interpretation-clause.

CHAPTER II.
OF RESERVED FORESTS.
3. Power to reserve forests.
4. Notification by Local Government.
5. Bar of accrual of forest-rights.
6. Proclamation by Forest Settlement Officer.
7. Enquiry by Forest Settlement Officer.
8. Powers of Forest Settlement Officer.
9. Extinction of rights.
10. Power to acquire land over which right is claimed.
11. Order on claims.
12. Record to be made by Forest Settlement Officer.
13. Record where he admits claim.
14. Exercise of rights admitted or modified.
15. Commutation of rights.
16. Appeal from order passed under section 10, 11, 14 or 15.
17. Appeal under section 16.
18. Power to appoint pleader on behalf of Government.
19. Notification declaring forest reserved.
20. Publication of translation of such notification in neighbourhood of forest.

SECTIONS.
21. Power to revise arrangement made by Forest Settlement Officer under section 14.
22. Reserved Forests constituted previous to passing of Act.
23. No right acquired over Reserved Forest except as here provided.
24. Rights not to be alienated without sanction.
25. Power to stop ways and water-courses in such forests.
26. Acts prohibited in such forests.
27. Power to declare forest no longer reserved.

CHAPTER III.
OF VILLAGE-FORESTS.
28. Formation of village-forests.

CHAPTER IV.
OF PROTECTED FORESTS.
29. "Protected Forests" defined.
30. Power to issue notification—
(*a*) reserving trees,
(*b*) closing forest,
(*c*) prohibiting collection of forest-produce,
(*d*) and breaking up or clearing of land.
31. Publication of translation of such notification in neighbourhood.
32. Power to make rules regulating disposal of produce of protected forests.
33. Penalties for acts in contravention of notification under section 30.
34. Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.
OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.
35. Protection of forests for special purposes.
36. Power to assume management of such forests.
37. Expropriation of forests in certain cases.
38. Protection of forests at request of owners.

CHAPTER VI.
OF THE DUTY ON TIMBER.
39. Power to impose duty on timber.
Power to fix value for *ad valorem* duty.
40. Limit not to apply to royalty or purchase-money.

CHAPTER VII.
OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.
41. Power to make rules to regulate transit of forest-produce.
42. Penalty for breach of rules made under section 41.
43. Government and its officers not liable for damage to forest-produce at depôt.
44. All persons bound to aid in case of accident at depôt.

CHAPTER VIII.
OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.
45. Certain kinds of timber to become property of Government until title thereto proved, and may be collected accordingly.
46. Notice to claimants of drift-timber.
47. Procedure on claim preferred to such timber.
On rejection of claim to such timber, claimant may institute suit.
48. Disposal of unclaimed timber.
49. Government and its officers not liable for damage to such timber.
50. Payments to be made by claimant before timber is delivered to him.
51. Power to make rules and prescribe penalties.

CHAPTER IX.
GENERAL.
A.—Of Penalties.
52. Seizure of property liable to confiscation.
Application for confiscation.
53. Procedure thereupon.
54. Forest-produce, tools, &c., when liable to confiscation.
55. Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.
56. Procedure when offender not known, or cannot be found.
57. Procedure as to perishable property seized under section 52.
58. Appeal from such order.
59. Property when to vest in Government.
60. Saving of power to release property seized.
61. Punishment for wrongful seizure.
62. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.
B.—Of Criminal Procedure.
63. Power to arrest without warrant.
64. Power to prevent commission of offence.
65. Power to try offences summarily.
66. Operation of other laws not barred.
67. Power to compound offences.
68. Presumption that timber belongs to Government.
C.—Of Cattle-trespass.
69. Cattle Trespass Act, 1871, to apply.
70. Power to alter fines fixed by that Act.
D.—Miscellaneous.
71. Persons interested in forest bound to assist Forest-officer and Police-officers.
72. Local Government may invest Forest-officers with certain powers.
73. Additional powers to make rules.
74. Power to impose penalties for breach of rules.
75. Rules when to have force of law.
76. Management of forests the joint property of Government and other persons.
77. Enforcement of service for which a share in produce of Government forest is enjoined.
78. Recovery of money due to Government.
79. Lien on forest-produce for such money.
Power to sell such produce.
80. Forest-officers deemed public servants.
81. Indemnity for acts done in good faith.
82. Forest-officers not to trade.
83. Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

SCHEDULE.

A Bill to amend the law relating to forests, the transit of forest-produce and the duty leviable on timber.

WHEREAS it is expedient to amend the law relating to forests, the transit of forest-produce and the duty leviable on timber; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Indian Forest Act, 1877:"

Short title.

Commencement. It shall come into force at once;

And the Local Government may from time to time, with the previous sanction of the Governor General in Council, extend, by notification in the official Gazette, this Act to all or any of the territories for the time being under its administration.

Extension.

The Acts mentioned in the Schedule hereunto annexed shall be repealed in the territories comprised in such notification.

Repeal of Acts.

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

Interpretation-clause.

"Forest-officer" means any person whom the Governor General in Council, or the Local Government or any officer empowered in that behalf, may from time to time appoint by name, or as holding an office, to carry out all or any of the purposes of this Act, or anything required by this Act or under any rule made under this Act to be done by a Forest-officer:

"Forest-officer."

"Tree" includes bamboos, stumps and brushwood:

"Tree."

"Timber" includes trees and bamboos when they have fallen or have been felled, and all wood whether cut up, or fashioned or hollowed out for cart-wheels, mortars, canoes or other purposes or not:

"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, peat, reeds, leaves, moss, flowers, fruits, roots, juice, catechu, bark, honey, wax, lac, caoutchouc, gum, wood-oil, grass-oil, resin, varnish, silk-worms and cocoons, skins, tusks, bones and horns:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

"Forest-offence."

"Cattle" means cattle as defined in the Cattle Trespass Act, 1871:

"Cattle."

"River" includes streams, canals, creeks and other channels, natural or artificial.

"River."

CHAPTER II.

OF RESERVED FORESTS.

3. The Local Government may, from time to time, constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a Reserved Forest in the manner hereinafter provided.

Power to reserve forests.

4. Whenever it is proposed to constitute any land a Reserved Forest, the Local Government shall publish a notification in the official Gazette—

Notification by Local Government.

(*a*) declaring that it is proposed to constitute such land a Reserved Forest;

(*b*) specifying the limits of such forest;

(*c*) appointing an officer (hereinafter 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 to or over any land comprised within such limits, or to or over any forest-produce, and to deal with the same as provided in this chapter.

Explanation 1.—For the purpose of clause (*b*) of this section it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

Explanation 2.—The officer appointed under clause (*c*) of this section shall ordinarily not be a Forest-officer.

Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a Forest-officer, to perform the duties of a Forest Settlement Officer under this Act.

5. During the interval between the publication of such notification and the date fixed by the notification under section nineteen, no right shall be acquired to, over, or in respect of the land 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 clearings for cultivation or for any other purpose shall be made in such land.

Bar of accrual of forest-rights.

6. When a notification has been issued under section four, the Forest Settlement Officer shall publish in the language of the country in every town and village in the neighbourhood of the land comprised therein, a proclamation:—

Proclamation by Forest Settlement Officer.

(*a*) specifying the limits of the proposed 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 either to present to such officer within such period a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

7. The Forest Settlement Officer shall—

(*a*) take down in writing all statements made under section six, and shall, at some convenient place, enquire into—

Enquiry by Forest Settlement Officer.

(*b*) all claims duly preferred under section six, and

(*c*) the existence of any rights as aforesaid, so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

8. For the purposes of such enquiry, the Forest Settlement Officer may exercise the following powers, that is to say:—

Powers of Forest Settlement Officer.

(*a*) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same;

(*b*) the powers of a Civil Court in the trial of suits.

9. The following rights shall be extinguished:—

Extinction of rights.

(*a*) rights in respect of which no such claim has been so preferred, if the person claiming them fails, before the notification under section nineteen is published, to satisfy the Forest Settlement Officer that he had sufficient cause for not preferring such claim within such period; and

(*b*) rights of the existence of which no knowledge has been acquired by enquiry under section seven, clause (*c*).

10. In the case of a claim to a right to or over any land, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

Power to acquire land over which right is claimed.

If such claim is admitted in whole or in part, the Forest Settlement Officer shall either (1) exclude such land from the limits of the proposed Forest; or (2) come to an agreement with the owner thereof for the surrender of his rights; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

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 appearing before him in pursuance of a notice given under section nine of that Act;

(*c*) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(*d*) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land or partly in land and partly in money.

11. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

Order on claims.

12. The Forest Settlement Officer, when passing any order under section eleven, shall record, so far as may be practicable,

Record to be made by Forest Settlement Officer.

(*a*) the name, father's name, caste, residence and occupation of the person claiming the right,

(*b*) the designation, 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.

13. If the Forest Settlement Officer admits in whole or in part any claim under section eleven, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, or such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

Record where he admits claim.

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, pass such orders as will ensure the continued exercise of the rights so admitted or modified. For this purpose the Forest Settlement Officer may—

Exercise of rights admitted or modified.

(*a*) 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; or

(*b*) so alter the limits of the proposed Forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient for the purposes of the claimants; or

(*c*) record an order, continuing to such claimants a right to pasture or to forest-produce (as the case may be), to the extent so admitted, at such seasons, within such portions of the proposed Forest and under such rules as may from time to time be prescribed by the Local Government.

15. In case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the Reserved Forest, to make such settlement under section fourteen as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Local Government 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 he thinks fit.

Commutation of rights.

16. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under section ten, eleven, fourteen or fifteen, present an appeal from such order to—

Appeal from order passed under section 10, 11, 14 or 15.

(*a*) such officer of the Revenue Department, of rank not lower than that of a Collector or Deputy

Commissioner, as the Local Government may, from time to time, by notification in the official Gazette, appoint by name, or as holding an office, to hear appeals from such orders, or

(*b*) a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the Local Government to hear appeals from such orders.

Appeal under section 16.

17. Every appeal under section sixteen shall be made by petition in writing, and may be delivered to the Forest Settlement Officer, who shall forward it to the authority competent to hear the same.

If the appeal be to the officer appointed under section sixteen, clause (*a*), it shall be heard in the manner prescribed for the hearing of appeals in matters relating to land-revenue.

If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal and shall give notice thereof to the parties, and shall hear such appeal accordingly.

The order passed thereon by such officer or Court, or by the majority of the members of such Court, shall be final, subject to revision by the Local Government.

Power to appoint pleader on behalf of Government.

18. The Local Government may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the appellate officer or Court in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

19. When the following events have occurred (namely)—

(*a*) the period fixed under section six for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement Officer; and

(*b*) such claims have been made, and the period limited by section sixteen 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 appellate officer or Court; and

(*c*) all lands (if any) to be included in the proposed forest, which the Forest Settlement Officer has, under section ten, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act,

the Local Government may publish a notification in the official Gazette specifying definitely, according to boundary marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a Reserved Forest.

Publication of translation of such notification in neighbourhood of forest.

20. The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the language of the district to be affixed in some conspicuous place in every town and village in the neighbourhood of the forest.

Power to revise arrangement made by Forest Settlement Officer under section 14.

21. The Local Government may, within five years from the publication of any notification under section nineteen, revise any arrangement made by the Forest Settlement Officer under section fourteen, and may, for this purpose, rescind or modify any order made under that section, and direct that any one of the proceedings specified in section fourteen be taken in lieu of any other of such proceedings, or that the rights admitted under section eleven be commuted under section fifteen.

Reserved Forests constituted previous to passing of Act.

22. Every forest constituted a Reserved Forest, whether under the designation of Government Forest or otherwise, previous to the date on which this Act is extended to the territory in which such forest is situated shall be deemed to have been constituted a Reserved Forest under this Act: and the Local Government shall, within twelve months from such date, declare, by notification in the official Gazette, what forests shall be deemed to have been so constituted.

Provided that, if any rights to or over any land or forest-produce are claimed in such Reserved Forest, and such claims have not already been enquired into and settled, the Local Government may direct that such claims shall be inquired into and settled in the manner provided by this Act.

No right acquired over Reserved Forest, except as here provided.

23. 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 without sanction.

24. No right continued under section fourteen, clause (*c*), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government: provided that when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section thirteen.

Power to stop ways and water-courses in such forests.

25. The Forest-officer may, from time to time, with the previous sanction of the Local Government or of any officer duly authorized in that behalf, stop any public or private way or water-course in a Reserved Forest, provided that a reasonably convenient substitute for the way or water-course so stopped already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

Acts prohibited in such forests.

26. Any person who—

(*a*) sets fire to a Reserved Forest, or kindles any fire in such manner as to endanger the same;

or who, in a Reserved Forest,

(*b*) kindles, keeps or carries any fire except at such seasons as the Forest officer may from time to time notify in this behalf;

(*c*) trespasses or grazes cattle or permits cattle to trespass;

(*d*) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(*e*) sells, girdles, lops, taps or burns any tree, or strips off the bark or leaves from, or otherwise damages, the same;

(*f*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes therefrom, any forest-produce;

(*g*) clears or breaks up any land for cultivation or any other purpose;

(*h*) hunts, shoots, fishes, kills or catches elephants, poisons water, or sets traps or snares in contravention of any rules which the Local Government may from time to time prescribe;

(*i*) makes any fresh clearing prohibited by section five;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both, in addition to such compensation for damage 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 continued under section fourteen, clause (*c*), or created by grant or contract in writing made by or on behalf of Government under section twenty-three.

Whenever fire is caused wilfully, or by gross negligence, in a Reserved Forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights to pasture or forest-produce shall be suspended for such period as it thinks fit.

Power to declare forest no longer reserved.

27. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act, shall cease to be a Reserved Forest.

From the date so fixed, such forest or portion shall cease to be reserved, but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

Formation of village-forests.

28. The Local Government may, from time to time, assign to any village community the rights of Government to or over any land which is, or which under this Act might be constituted, a Reserved Forest, and may cancel such assignment. All forests so assigned shall be called Village-forests.

The Local Government may make rules for regulating the management of Village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber, or other forest-produce or pasture, 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 the rules so made) apply to Village-forests.

CHAPTER IV.

OF PROTECTED FORESTS.

"Protected Forest" defined.

29. The Local Government may from time to time, by notification in the official Gazette, declare the provisions of this chapter applicable to any forest-land or waste-land which is not included in a Reserved Forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

The forest-land and waste-lands comprised in any such notification shall be called a "Protected Forest."

No such notification shall be made unless the nature and extent of the rights of Government and of private persons in the forest-land or waste-land comprised therein have been enquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient.

Every such record shall be presumed to be correct until the contrary is proved.

Power to issue notification—

30. The Local Government may from time to time, by notification in the official Gazette,—

reserving trees,

(*a*) declare any class of trees in a protected forest, or any trees in any such forest, to be reserved from a date fixed by such notification;

closing forest,

(*b*) declare from time to time a portion of such forest to be closed, for such term not exceeding ten years as the Local Government thinks fit, and that the rights of private persons over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed;

prohibiting collection of forest-produce,

(*c*) prohibit, from a date fixed as aforesaid,

the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process or removal of any forest-produce, in any such forest, and

and breaking up or clearing of land.

the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, any land in any such forest; and

(*d*) alter or cancel such declaration or prohibition.

Publication of translation of such notification in neighbourhood.

31. The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district of every notification issued under section thirty to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Power to make rules regulating disposal of produce of protected forests.

32. The Local Government may, from time to time, make rules to regulate the following matters:—

(*a*) the cutting, sawing, conversion and removal of trees and timber, and the collection, manu-

facture and removal of forest-produce from protected forests;

(*b*) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take forest-produce for their own use, and the production and return of such licenses by such persons;

(*c*) the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade and the production and return of such licenses by such persons;

(*d*) the payments (if any) to be made by the persons mentioned in clauses (*b*) and (*c*) of this section for permission to cut such trees, or to collect and remove such timber or other forest-produce;

(*e*) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payments shall be made;

(*f*) the examination of forest-produce passing out of such forests;

(*g*) the clearing and breaking up of land for cultivation or other purposes in such forests;

(*h*) the protection from fire of timber lying in such forests and of trees reserved under section thirty;

(*i*) the cutting of grass and pasturing of cattle in such forests;

(*j*) hunting, shooting, killing or catching elephants, fishing, poisoning water, and setting traps or snares in such forests;

(*k*) the protection and management of any portion of a forest closed under section thirty;

(*l*) the exercise of rights recorded as contemplated in section twenty-nine.

Penalties for acts in contravention of notification under section 30.

33. Any person who commits any of the following offences:—

(*a*) fells, girdles, lops, taps or burns any tree reserved under section thirty, or strips off the bark or leaves from, or otherwise damages, any such tree;

(*b*) contrary to any prohibition under section thirty, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;

(*c*) contrary to any prohibition under section thirty, breaks up or clears for cultivation or any other purpose, any land in any protected forest;

(*d*) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any trees reserved under section thirty, whether standing, fallen or felled, or to any closed portion of such forest;

(*e*) leaves burning any fire kindled by him in the vicinity of any such trees or timber; or

(*f*) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;

(*g*) permits cattle to damage any such tree;

(*h*) infringes any rule made under section thirty-two;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Nothing in this chapter to prohibit acts done in certain cases.

34. Nothing in this chapter 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 thirty-two, or (except as regards any portion of a forest closed under section thirty) in the exercise of any right recorded under section twenty-nine.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

Protection of forests for special purposes.

35. The Local Government may from time to time, by notification in the official Gazette, regulate or prohibit in any forest or waste land—

(*a*) the breaking up of land for cultivation;

(*b*) the grazing of cattle;

(*c*) the firing or clearing of the vegetation;

when such regulation or prohibition appears necessary for any of the following purposes:—

First.—For protection against storms, winds, rolling stones, floods, and avalanches;

Second.—For the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones or gravel;

Third.—For the maintenance of a water-supply in springs, rivers and tanks;

Fourth.—For the protection of roads, bridges, railways and other lines of communication;

Fifth.—For the preservation of the public health;

and may alter or cancel such notification.

The Local Government may, for any such purpose, construct at its own expense, in or upon any such forest or waste-land, such work as it thinks fit.

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling on him to shew cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf, and have been considered by the Local Government.

Power to assume management of such forests.

36. In case of neglect of, or wilful disobedience to, any regulation or prohibition under section thirty-five, or if the purposes of any work to be constructed under that section so require, the Local Government may, after notice in writing to the owner of such forest or land, and after considering his objections (if any), place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to Reserved Forests shall apply to such forest or land.

The nett profits (if any) arising from the management of such forest or land shall be paid to the said proprietor.

Expropriation of forests in certain cases.

37. In any case under this chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.

The owner of any forest or land comprised in any notification under section thirty-five may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

Protection of forests at request of owners.

38. The owner of any land or, if there be more than one person interested therein, any such persons interested in the aggregate in not less than two-thirds of the area thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector or Deputy Commissioner their desire—

(*a*) that such land be managed on their behalf by the Forest-officer as a Reserved or a Protected Forest on such terms as may be mutually agreed upon; or

(*b*) that all or any of the provisions of this Act be applied to such land.

In either case, the Local Government may, by notification in the official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled.

CHAPTER VI.

OF THE DUTY ON TIMBER.

Power to impose duty on timber.

39. The Local Government, with the previous sanction of the Governor General in Council, may levy a duty in such manner, at such places, and at such rates as it may, from time to time, prescribe by notification in the official Gazette, on all timber

(*a*) which is produced in British India, and in respect of which the Government has any right;

(*b*) which is brought from any place beyond the frontier of British India.

Power to fix value for *ad valorem* duty.

In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, with the like sanction, from time to time fix, by like notification, the value on which such duty shall be assessed.

All such duties, which, at the time when this chapter is extended to any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

Limit not to apply to royalty or purchase-money.

40. Nothing in this chapter shall be deemed to limit the amount chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

Power to make rules to regulate transit of forest-produce.

41. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it 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 alone timber and other forest-produce may be imported, exported or moved, into, from, or within, British India;

(*b*) prohibit the import and export or moving of such timber or other produce without a pass from an officer duly authorized to issue the same, 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, reporting, examination and marking 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; the conditions under which such timber or other produce shall be brought to, stored at, and removed from, such depôt;

(*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;

(*g*) provide for the prevention and removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, 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;

(*i*) regulate the use of property-marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

42. The Local Government may by such rules prescribe, as penalties for the infringement thereof, imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees or both. Double penalties may be inflicted in cases where the offence is committed after sunset and before sunrise, after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence.

Penalty for breach of rules made under section 41.

43. 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 forty-one, or while detained elsewhere for the purposes of this Act; 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.

44. 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 render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

All persons bound to aid in case of accident at depôt.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

45. All—

(*a*) timber found adrift, beached, stranded, sunk;

(*b*) unmarked wood and timber, or wood or timber bearing marks which have not been registered under section forty-one, or on which the marks have been obliterated, altered or defaced by fire or otherwise,

Certain kinds of timber to become property of Government until title thereto proved, and may be collected accordingly.

shall be deemed to be the property of Government unless and until any person establish his right and title thereto, as provided in this chapter.

Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section fifty-one, and may be brought to such depôts as the Forest-officer may from time to time notify as depôts for the reception of drift-timber.

The Local Government may, by notification in the official Gazette, exempt any class of timber from the provisions of this section, and withdraw such exemption.

46. Public notice shall from time to time be given by the Forest-officer, of timber collected under section forty-five. Such notice shall contain a description of the timber and shall require any person claiming the same to present to such officer within a period not less than two months from the date of such notice a written statement of such claim.

Notice to claimants of drift-timber.

47. When any such statement is presented as aforesaid, the Forest-officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

Procedure on claim preferred to such timber.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending orders from any such Court for its disposal.

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 compensation 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.

No such timber shall be subject to process of any Civil, Criminal, or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section forty-six, 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 forty-seven, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section forty-seven, in such other person, free from all encumbrances.

Disposal of unclaimed timber.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section forty-five 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.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sums on account of the collection thereof as may be due under any rule made in pursuance of section fifty-one.

Payments to be made by claimant before timber is delivered to him.

51. The Local Government may from time to time make rules to regulate the following matters (namely):—

Power to make rules and prescribe penalties.

(*a*) the salving, collection and disposal of all timber mentioned in section forty-five;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting, moving, storing and disposal of such timber;

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Local Government may from time to time prescribe as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine not exceeding five hundred rupees, or both.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

52. When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in committing any such offence may be seized by any Police-officer or Forest-officer.

Seizure of property liable to 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, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Application for confiscation.

Provided that when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

53. Upon the receipt of any such report the Magistrate shall with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Procedure thereupon.

54. All timber or forest-produce which is not the property of Government and 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.

Forest-produce, tools, &c., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

55. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and in any other case may be disposed of in such manner as the Court may direct.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

56. When the offender is not known, or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom he deems to be entitled to the same.

Procedure when offender not known, or cannot be found.

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

57. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section fifty-two and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Procedure as to perishable property seized under section 52.

58. The officer who made the seizure under section fifty-two, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of such order, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Appeal from such order.

59. When an order for the confiscation of any property has been passed under section fifty-four or fifty-six, as the case may be, and the period limited by section fifty-eight for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court 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 encumbrances.

Property when to vest in Government.

60. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section fifty-two.

Saving of power to release property seized.

61. Any Police-officer or Forest-officer who vexatiously and 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.

62. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,—

Penalty for counterfeiting or defacing marks on trees and timber and for altering 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.

63. Any Police-officer 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.

Nothing in this section shall be deemed to authorize such arrest for any act which is an offence under chapter IV of this Act, unless such act has been prohibited under section thirty, clause (*c*).

64. 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.

65. The Magistrate of the district, and any Magistrate of the first class specially empowered in this behalf by the Local Government, may try summarily under the Code of Criminal Procedure, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees.

Power to try offences summarily.

66. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Operation of other laws not barred.

67. The Local Government may from time to time, by notification in the official Gazette, empower any Forest-officer by name, or as holding an office, to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence other than an offence under section sixty-one or section sixty-two a sum of money by way of compensation for any damage which may have been committed, and may release any property which has been seized on payment of the value thereof as estimated by such officer.

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 shall be taken under this Act against such person or property; but nothing herein contained shall exempt him from prosecution on the same facts under any other law for the time being in force.

68. When in any proceedings taken 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.

69. Cattle trespassing in a Reserved Forest, or in any portion of a Protected Forest which has been lawfully closed to grazing, 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-officer or Forest-officer.

Cattle-trespass Act, 1871, to apply.

70. The Local Government may from time to time, by notification in the official Gazette, 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 sixty-nine of this Act, such fines as it thinks fit, but not exceeding the following, that is to say:—

Power to alter fines fixed by that Act.

For each elephant	... ...	ten rupees.
For each buffalo or camel	... ...	two „
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	...	one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	... ...	eight annas.

D.—Miscellaneous.

71. Every person who exercises any right in a Protected Forest, or in a Reserved Forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and

Persons interested in forest bound to assist Forest-officer and Police-officers.

every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any Forest-officer or Police-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.

72. The Local Government may invest any Forest-officer by name, or as holding an office, with the following powers, that is to say:—

Local Government may invest Forest-officers with certain powers

(*a*) power to enter upon any land and to survey, demarcate, and make a map of the same;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue a search-warrant under chapter XXVII of the Code of Criminal Procedure;

(*d*) power to hold an enquiry into forest-offences, and, in the course of such enquiry, to record evidence on oath.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

73. The Local Government may from time to time make rules—

Additional powers to make rules.

(*a*) to prescribe and limit the powers and duties of any Forest-officer under this Act;

(*b*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act;

(*c*) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and

(*d*) generally to carry out the provisions of this Act.

74. The Local Government may, in making any rule under this Act for breach of which no special penalty is provided, attach to the breach of it, in addition to any other consequences that would ensue therefrom, the punishment, on conviction before a Magistrate, of imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Power to impose penalties for breach of rules.

75. All rules made by the Local Government under this Act shall be published in the official 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.

Provided that no rule made under section twenty-eight, thirty-two, or forty-one shall be so published without the previous sanction of the Governor General in Council.

76. If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Government may, from time to time, either

Management of forests the joint property of Government and other persons.

(*a*) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

When the Government undertakes, under clause (*a*) of this section, the management of any forest, waste-land or produce, it may, from time to time, by notification in the official Gazette, declare that all or any of the provisions contained in chapters II and IV of this Act shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

77. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed: Provided that no such share shall be confiscated until the person entitled thereto, and the evidence (if any) which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the Local Government.

Enforcement of service for which a share in produce of Government forest is enjoyed.

78. 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 under the law for the time being in force as if it were an arrear of land-revenue.

Recovery of money due to Government.

79. 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.

80. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Forest-officers deemed public servants.

81. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Indemnity for acts done in good faith.

82. Except with the permission in writing of the Local Government, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

Forest-officers not to trade.

83. Whenever it appears to the Local Government that any land is required for any of the purpose of this Act such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

SCHEDULE.

(*See section* 1.)

ACTS REPEALED.

Number and year of Act.	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.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 27, 1877. { Register No. 52.

☞ 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 10th October 1877 :—

No. 16 OF 1877.

THE STAMP BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Extent of Act.
   Commencement of Act.
2. Repeal of enactments.
3. Interpretation-clause.
4. Rule of construction.

CHAPTER II.

STAMP-DUTIES AND COURT-FEES CHARGEABLE UNDER THIS ACT.

5. All duties to be paid according to the regulations of this Act.
6. Schedules to be read as part of Act.
7. Use of appropriated stamps.

CHAPTER III.

STAMP-DUTIES ON INSTRUMENTS.

SECTIONS.

8. Scheduled duties chargeable.
9. Instruments executed in British India.
   Instruments executed out of British India.
10. How instruments are to be written and stamped.
11. Stock and marketable securities to be valued.
12. Effect of statement of value.
13. Denoting stamp.
14. Use of adhesive stamps.
15. Duties by whom payable.
16. Bills of exchange chargeable with duty.
17. Stamping bills drawn out of British India.
18. Power of banker in case of bills, notes and cheques received by him unstamped.
    Saving of liability for issuing bill, &c., unstamped.
19. Foreign bill unstamped or with stamp uncancelled.
20. Instruments reserving interest.
21. Consideration expressed in certain foreign currencies.
22. Valuation of money in other foreign or colonial currency for levy of duty.
23. Optional stamps where value of subject-matter is indeterminate.
24. Amount on which duty leviable in case of bond, &c., for payment of annuity.
25. Amount on which duty leviable where consideration is an annuity.

SECTIONS.
26. Amount on which duty leviable in case of lease where no term is expressed.
27. Several instruments used in single transaction.
28. Instruments coming within two or more of the definitions in section 3.
Instruments conveying several subject-matters.
29. Consideration to be stated.
Mortgage-money to be deemed purchase-money.

CHAPTER IV.

UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

30. Instruments produced in Court to be examined.
31. Instruments not duly stamped inadmissible in evidence.
32. Admission in criminal cases of documents for which proper fee has not been paid.
33. Procedure as to instruments impounded under section 30, and not received in evidence.
34. Impounding unstamped instruments in public office.
35. Powers of Collector as to unstamped or insufficiently stamped instruments other than bills and notes.
Certificate.
36. Endorsement of instruments on which duty has been paid under section 31 or 35.
37. Right of person paying duty under section 31 or 35 when he is not bound to provide stamp.
38. Instruments chargeable with one anna duty.
39. Non-liability for loss of instruments sent under section 18, 33 or 34.
40. Procedure where receipts are required.
41. Stamping unstamped receipts.
42. Cancellation of adhesive stamps.

CHAPTER V.

ADJUDICATION OF DOUBTS AS TO STAMPS.

43. Adjudication of doubt as to proper stamp.
44. Payments under section 43 how made.

CHAPTER VI.

REFERENCE AND REVISION.

45. Reference to High Court.
46. Procedure where Collector entertains doubt as to duty chargeable.
47. Procedure where Court entertains doubt as to duty on instrument.
48. Revision of certificates and orders.

CHAPTER VII.

FEES IN THE CHARTERED HIGH COURTS.

49. Levy of fees in High Courts on their original sides.
SECTIONS.
50. Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction.
In their appellate jurisdiction.
As Courts of reference and revision.
51. Procedure in case of difference as to necessity or amount of fee.
52. Saving of fees to certain officers of High Court.

CHAPTER VIII.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

53. Fees on documents filed, &c., in Mufassal Courts or in public offices.
54. Power to stamp document inadvertently received.
55. Amended document.
56. Computation of fees payable in certain suits.
i—for money:
ii—for maintenance and annuities:
iii—for other moveable property having a market-value:
iv—for moveable property of no market-value:
to enforce a right to share in joint family property:
for a declaratory decree:
for an injunction:
for easements:
for accounts:
v—for possession of lands, houses and gardens:
Proviso as to Bombay Presidency:
for houses and gardens:
vi—to enforce a right of pre-emption:
vii—for interest of assignee of land-revenue:
viii—to set aside an attachment:
ix—to redeem:
to foreclose:
x—for specific performance:
xi—between landlord and tenant.
57. Fees in certain suits by Government ryots in Madras.
58. Fee on memorandum of appeal against order relating to compensation.
59. Power to ascertain nett profits or market-value.
60. Procedure where nett profits or market-value wrongly estimated.
61. Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.
62. Decision of questions as to valuation.
63. Additional fee where respondent takes objection to unappealed part of decree.
64. Suit comprising more than one subject.
65. Cancellation of stamps.
66. Written examinations of complainants.
67. Repayment of fees paid on applications to criminal Courts.

CHAPTER IX.

PROBATES, LETTERS OF ADMINISTRATION, AND CERTIFICATES OF ADMINISTRATION.

SECTIONS.
68. Relief where too high a court-fee has been paid on probate or letters of administration.
69. Relief where debts due from a deceased person have been paid out of his estate.
70. Relief in case of several grants.
71. Probates declared valid as to trust property though not covered by court-fee.
72. Provision for case where too low a court-fee has been paid on probates, &c.
73. Administrator to give proper security before letters stamped under section 79.
74. Executors, &c., not paying full court-fee on probates, &c., within six months after discovery of underpayment.
75. Collector to deliver or pay stamp or amount directed by Court.
76. This chapter applied to certificates under Acts XL of 1858, XXVII of 1860 and XX of 1864.

CHAPTER X.

REFUNDS.

77. Allowance for spoiled stamps.
78. Allowance for misused stamps.
79. Allowance how to be made.
80. Repurchase of stamps not wanted.
81. Refund of fee paid on memorandum of appeal.
82. Refund of fee on application for review of judgment.
83. Refund where Court reverses or modifies its former decision on ground of mistake.
84. Refund where plaint rejected for merely technical defect.
85. Remission of additional duty levied under section 31.

CHAPTER XI.

CRIMINAL PENALTIES.

86. Penalty for executing instrument on paper not duly stamped.
87. Penalty for presenting, &c., unstamped foreign bills or notes.
88. Refusal to give receipt.
89. Penalty for failure to cancel such stamps.
90. Penalty for not drawing full number of bills or marine policies purporting to be in sets.
91. Penalty for not stating consideration.
92. Penalty on attorneys, &c., not inserting true consideration.
93. Fraudulent removal, sale, &c., of adhesive stamps.
94. Penalty for stamp-vendor disobeying rules.
95. Reward to informers.
96. Institution and conduct of prosecution.
97. Magistrates having jurisdiction.

CHAPTER XII.

MISCELLANEOUS.

SECTIONS.
98. Employment of single impressed stamp.
99. Employment of several stamped papers.
100. Power to reduce or remit rates of stamp-duty.
101. Power to make subsidiary rules.
Approval and publication of rules.

SCHEDULES.

I. AD VALOREM STAMP-DUTIES.
II. FIXED STAMP-DUTIES.
III. EXEMPTIONS FROM STAMP-DUTY.
IV. AD VALOREM COURT-FEES.
V. FIXED FEES.
VI. EXEMPTIONS FROM COURT-FEES.
VII. ACTS REPEALED.

A Bill to consolidate and amend the law relating to Stamps and Court-fees.

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Stamp Act, 1878."

Extent of Act. It extends to the whole of British India;

Commencement of Act. And it shall come into force on the *first* day of July 1878.

Repeal of enactments. 2. On and after that day, the Acts specified in the seventh schedule shall be repealed to the extent specified in the third column of the same schedule. But all rules framed 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. And all exemptions granted under any such Act and then in force shall be deemed to have been granted under this Act. And all references made to the General Stamp Act, 1869, or to the Court-Fees Act, 1870, shall be deemed to be made to this Act.

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

"Affidavit." (1.) "Affidavit" means a declaration in writing, on oath or affirmation, made before a person authorized by law to administer an oath:

"Award." (2.) "Award" means any decision in writing by an arbitrator or umpire:

"Banker." (3.) "Banker" includes any person acting as a banker:

(4.) "Bill of exchange" includes a hundí and every other instrument (except a cheque) whereby a person is ordered to pay to another a specified sum of money: "Bill of exchange."

(5.) "Bill of lading" means any instrument signed by the owner of a ship or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver them at a place and to a person therein mentioned or indicated. It includes a cargo receipt: "Bill of lading."

(6.) "Bond" means any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be: "Bond."

(7.) "Bottomry-bond" means any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to prosecute her voyage: "Bottomry-bond."

(8.) "Charter-party" means any instrument (except an agreement for the hire of a tug-steamer) whereby a ship or some principal part thereof is let for the specified purposes of the charterer: "Charter-party."

(9.) "Cheque" means any instrument whereby a bank or banker is ordered to pay on demand a specified sum of money: "Cheque."

(10.) "Chief Controlling Revenue Authority" means in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue: in the Presidency of Bombay, a Revenue Commissioner: in the Panjáb, the Financial Commissioner; and elsewhere the Local Government. "Chief Controlling Revenue Authority."

(11.) "Collector" means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras or Bombay, and without those limits, the Collector of a District, and includes a Deputy Commissioner or any officer having jurisdiction equivalent to that of a Collector of a District: "Collector."

(12.) "Composition-deed" means any instrument executed by a debtor, whereby the debtor conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors: "Composition-deed."

(13.) "Conveyance" means any instrument (except a transfer of a share in a Company or Association, a mortgage-deed, a settlement, a lease, an instrument of reconveyance of mortgaged property, a composition-deed, an instrument of gift, or an instrument of exchange or partition-deed, where no money is paid for equality of exchange or partition), by which property is conveyed *inter vivos*. It includes a certificate under the Code of Civil Procedure, section 316, and a sale-certificate granted by a Collector: "Conveyance."

(14.) "Counterpart" means the duplicate of a conveyance, settlement, mortgage-deed or lease, such duplicate not being executed by the grantor, settlor, mortgagor or lessor, but by some other party to the instrument: it includes a *kabáliyat* in cases where a lease has been granted: "Counterpart."

(15.) "Delivery-order" means any document or writing entitling, or intended to entitle, any person therein named, or his assigns, or the holder thereof, to the delivery of any goods, wares or merchandise of the value of twenty rupees or upwards, lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such document or writing being signed by or on behalf of the owner of such goods, wares or merchandise, upon the sale or transfer of the property therein: "Delivery-order."

(16.) "Dock-warrant" means any instrument evidencing the title of any person therein named or his assign, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the company or person in whose custody such goods may be: "Dock-warrant."

(17.) "Instrument duly stamped" means an instrument chargeable with stamp-duty or a court-fee according to the law in force in British India at the date of its execution and stamped in accordance with such law: "Instrument duly stamped."

(18.) "Impressed" includes printed and lithographed: "Impressed."

(19.) "Instrument" includes every written document: "Instrument."

(20.) "Instrument of apprenticeship" includes every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment, except articles of clerkship to attornies: "Instrument of apprenticeship."

(21.) "Instrument of divorce" includes every document by which any person purports to effect the dissolution of his marriage. "Instrument of divorce."

(22.) "Interest" means simple interest: "Interest."

(23.) "Lease" means any instrument (not being a counterpart) by which one person lets or agrees to let, or takes or agrees to take, property to or from another: "Lease."

(24.) "Letter of credit" means any instrument by which one person requests another to give credit to the person in whose favour it is drawn: "Letter of credit."

(25.) "Letter of license" includes every agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion: "Letter of license."

(26.) "Mortgage-deed" means any instrument evidencing a pledge of immoveable property for securing the payment of money: "Mortgage-deed."

(27.) "Negotiable instrument" includes bills of exchange, promissory notes and cheques: "Negotiable instrument."

(28.) "Notarial act" means any instrument, endorsement, note or entry made or signed by a Notary Public in the execution of the duties of his office, and includes every like instrument, endorsement, note or entry made or signed by a consul, attorney, judge, magistrate, or other person acting as a Notary Public: "Notarial act."

(29.) "Paper" includes vellum, parchment or any other material on which an instrument may be written: "Paper."

(30.) "Partition-deed" means any instrument whereby persons interested in property, jointly or in common, or as co-parceners, or as members of an undivided family, divide or agree to divide such property in severalty, and includes a *batwárá*: "Partition-deed."

(31.) "Policy of insurance" means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event: it includes a policy on life: "Policy of insurance."

(32.) "Power-of-attorney" means any instrument (except a proxy) empowering a person to act in the stead of the person executing it: "Power-of-attorney."

(33.) "Promissory note" means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight: "Promissory note."

(34.) "Property" means property being in British India at the time of executing the instrument in which it is comprised: "Property."

(35.) "Protest" means a declaration in writing made by a Notary Public, or other person authorized to act as such, attesting the dishonour of a bill of exchange or promissory note: "Protest."

(36.) "Protest of the Master of a ship" means a declaration of the particulars of her voyage, drawn up by him with a view to the adjustment of losses, or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship: "Protest of the Master of a ship."

(37.) "Proxy" means an instrument whereby a person authorizes another to vote for him at a meeting: "Proxy."

(38.) "Receipt" means any note, memorandum, writing or advertisement whatsoever, whereby any money or goods, the amount or value of which exceeds ten rupees, or any bill of exchange or promissory note or cheque for money exceeding ten rupees, is acknowledged or expressed to have been received or deposited as paid in satisfaction of a debt, or whereby any debt or demand or any part of a debt or demand exceeding ten rupees is acknowledged to have been settled, satisfied or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person: "Receipt."

(39.) "Release" means any instrument whereby a person renounces a claim upon another person or against any specified property: "Release."

(40.) "Respondentia-bond" means an instrument securing a loan on the cargo laden or to be laden on board a ship, and making repayment contingent on the arrival of the cargo at the port of destination: "Respondentia-bond."

(41.) "Settlement" means any instrument (other than a will) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled: it includes a deed of dower and an assurance for religious or charitable purposes: "Settlement."

(42.) "Schedule" and "schedules" respectively mean a schedule and schedules to this Act annexed: "Schedule."

(43.) "Stamp" means as well a stamp impressed by means of a die as an adhesive stamp used under this Act: "Stamp."

(44.) "Stamp law" used in reference to any instrument means the law relating to stamps in force in British India at the time of its execution: and "Stamp law."

(45.) "Written" and "writing" includes every mode in which words or figures can be expressed upon paper.

Rule of construction.

4. The rule of the English common-law that statutes imposing charges on the subject are to be strictly construed has no application to this Act. But its provisions are to be construed so as to give effect to the will of the legislature.

CHAPTER II.

STAMP-DUTIES AND COURT-FEES CHARGEABLE UNDER THIS ACT.

All duties to be paid according to the regulations of this Act.

5. All stamp-duties and court-fees which may from time to time be chargeable by law in respect of any instruments are to be paid and denoted by means of stamps according to the regulations herein contained, or made under the powers hereinafter conferred.

Schedules to be read as part of Act.

6. The schedules and everything therein contained, are to be read and construed as part of this Act.

Use of appropriated stamp.

7. A stamp which, by any words on the face of it, or by any rule made under the power hereinafter conferred, is appropriated to any particular description of instrument, is not to be used, or, if used, is not to be available, for an instrument of any other description.

An instrument falling under the particular description to which any stamp is so appropriated

as aforesaid is not to be deemed duly stamped, unless it is stamped with the stamp so appropriated.

CHAPTER III.

STAMP-DUTIES ON INSTRUMENTS.

Scheduled duties chargeable.

8. Subject to the exemptions contained in schedule three and in any other law for the time being in force, for every instrument mentioned in the first and second schedules, and executed in British India on or after the first day of March 1878,

or executed out of British India on or after that day, but relating to, or empowering any person to deal with, any property within British India at the time of execution,

there shall be payable to the Government of India, as stamp-duty, the amount indicated in the said first or second schedule to be the proper duty for such instrument.

Instruments executed in British India.

9. Instruments executed in British India shall be stamped at the time of execution.

Instruments executed out of British India.

Instruments executed out of British India and relating to, or empowering any person to deal with, property within British India at the time of execution shall be stamped within one month after their arrival in British India; and where any such instrument requires to be stamped with an impressed stamp it shall be taken for that purpose to the Collector, who shall on payment of the proper duty stamp the same in the manner directed by the rules under this Act and certify thereon that such duty has been paid.

How instruments are to be written and stamped.

10. Every instrument written upon stamped paper is to be written in such manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument.

Not more than one instrument shall be written upon the same piece of stamped paper.

Stock and marketable securities to be valued.

11. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

Effect of statement of value.

12. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it is, so far as regards the subject-matter of such statement, to be deemed duly stamped, unless or until it is shown that such statement is untrue, and that the instrument is in fact insufficiently stamped.

Denoting stamp.

13. Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty shall, if application be made to the Collector for that purpose, and on production of both the instruments, be denoted in such manner as he thinks fit upon such first-mentioned instrument.

Use of adhesive stamps.

14. The following instruments may (subject to the provisions hereinafter contained) be stamped with adhesive stamps:—

(*a*) instruments chargeable under the second schedule with the duty of one anna;

(*b*) bills of exchange and promissory notes drawn or made out of British India;

(*c*) transfers by endorsement of shares of public companies and associations.

Duties by whom payable.

15. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(*a*) in the case of any instrument mentioned in the first schedule (other than a policy of insurance, a mortgage-deed, a settlement, a conveyance, a lease, an instrument of exchange or partition-deed where money is paid for equality of exchange or partition, an appraisement or valuation, an award and a copy, duplicate or extract) by the person drawing, making or executing such instrument:

(*b*) in the case of a policy of insurance—by the insured:

(*c*) in the case of a settlement—by the settlor:

(*d*) in the case of a conveyance, mortgage-deed or lease—by the grantee, mortgagor or lessee:

(*e*) in the case of a counterpart of a lease—by the lessor:

(*f*) in the case of a partition-deed—by the parties thereto in proportion to their respective shares in the property comprised therein:

(*g*) in the case of an exchange where money is paid for equality of exchange—by the person paying such money: and

(*h*) in the case of an exchange where no such money is paid—by the parties in equal shares.

In the case of an instrument of gift the expense of providing the proper stamp shall be borne by the donor.

Bills of exchange chargeable with duty.

16. The duty imposed by this Act on bills of exchange shall be chargeable

(*a*) on all bills drawn and payable in British India,

(*b*) on all bills drawn in, but payable out of, British India, and

(*c*) on all bills drawn out of, but accepted or paid, or endorsed, transferred, or otherwise negotiated within, British India.

Stamping bills drawn out of British India.

17. The holder of any bill of exchange or promissory note drawn or made out of British India and not stamped as required by this Act, shall, before he presents the same for acceptance or for payment, or endorses, transfers, or otherwise negotiates such bill or note, affix thereto the proper adhesive stamp or stamps required by this Act.

Power of banker in case of bills, notes and cheques received by him unstamped.

18. When any bill of exchange, cheque or promissory note chargeable hereunder with the duty of one anna comes unstamped to the hands of a banker, he may affix thereto the necessary adhesive stamp, and upon so doing, may charge the duty against the person who ought to have paid the same, or deduct such duty from the sum so directed to be paid.

Such bill, note or cheque shall, so far as relates to the duty chargeable thereon, be valid; but this shall not relieve any person or firm from liability to the penalty which he or it may have incurred by issuing or giving the said bill, note or cheque unstamped.

Saving of liability for issuing bill, &c., unstamped.

Foreign bill unstamped or with stamp uncancelled.

19. Subject to the provisions contained in section 18, no person taking a bill of exchange or promissory note drawn or made out of British India and requiring a stamp under this Act, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose, unless at the time when he so takes it, the proper stamp is affixed thereto and cancelled in manner directed by this Act.

Instruments reserving interest.

20. When interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with a duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Consideration expressed in certain foreign currencies.

21. When the consideration set forth in, or the amount secured by, any instrument chargeable under this Act is expressed in pounds sterling, pounds currency, francs or dollars, such consideration or amount shall, for the purposes of this Act, be estimated according to the following scale:—

One pound sterling or pound currency is equivalent to ten rupees:

One hundred francs are equivalent to forty rupees:

One Mexican or China dollar is equivalent to two rupees four annas:

One Mauritius dollar is equivalent to two rupees.

Valuation of money in other foreign or colonial currency for levy of duty.

22. Where an instrument is chargeable with *ad valorem* duty in respect of any money in any other foreign or colonial currency, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

Optional stamps where value of subject-matter is indeterminate.

23. When the amount or value of the subject-matter of any bond, mortgage-deed, settlement, exchange or gift chargeable under this Act with *ad valorem* duty, and referred to or mentioned in section 15 cannot be ascertained, the proper stamp to be borne by such instrument may be determined by the person bound under that section to bear the expense of providing the stamp:

Provided that, under such instrument, nothing shall be recoverable more than the highest amount or value for which, if stated in an instrument of the same denomination, the stamp actually used under such option would have been sufficient.

Amount on which duty leviable in case of bond, &c., for payment of annuity.

24. The whole amount secured for the payment of an annuity, or other sum payable periodically for an indefinite time, by a bond, promissory note, or mortgage-deed shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Amount on which duty leviable where consideration is an annuity.

25. When the consideration for a conveyance is an annuity or other sum payable periodically for an indefinite time, such consideration shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Amount on which duty leviable in case of lease where no term is expressed.

26. In the case of a lease where no term is expressed, the average annual rent payable in respect of the property comprised therein shall, for the purposes of this Act, be deemed to be the average annual rent payable under the lease for the ten years next after it commences.

Several instruments used in single transaction.

27. When more instruments than one are required for the completion of any transaction involving the execution of a mortgage-deed, settlement, conveyance or lease, the proper stamp required by this Act for such mortgage-deed, settlement, conveyance or lease, shall be borne by the principal instrument, whether the several instruments executed in such transaction are executed simultaneously or otherwise, and each of the other instruments shall, for the purposes of this Act, be deemed to be collateral.

The parties may determine for themselves which of such instruments shall, for the purposes of this Act, be deemed to be the principal instrument: Provided that, where the instruments are liable to different rates of duty under this Act, the instrument liable to the highest of such rates shall be deemed to be the principal instrument.

Instruments coming within two or more of the definitions in section 3.

28. An instrument so framed as to come within two or more of the definitions in section three shall, when the instruments to which those definitions apply are liable to different rates of duty under this Act, be charged with the highest of such rates:

Instruments conveying several subject-matters.

Provided that, when any one of such instruments purports, for distinct considerations, to convey by way of sale, to lease, to give or to mortgage two or more subject-matters,

or to convey by way of sale, to lease or to give one subject-matter and to mortgage another,

such instrument shall be chargeable with the aggregate amount of the duties to which instruments effecting separately each of such conveyances, leases, gifts or mortgages would be liable under this Act. But where such instrument is stamped with an insufficient stamp, the value of such stamp may be taken into account in computing the aggregate amount so chargeable.

Consideration to be stated.

29. (*a.*)—When any moveable or immoveable property is sold or is leased in consideration of a fine or premium, the full consideration-money directly or indirectly paid or secured, or agreed to be paid or secured for the same, shall be truly set forth in words at length in the principal or only instrument whereby the property sold or leased is conveyed to, or vested in, the purchaser or lessee or in any other person by his direction.

Mortgage-money to be deemed purchase-money.

(*b.*)—When any property is sold and conveyed subject to any mortgage or bond or other debt, or to any gross or entire sum of money, such debt or sum shall be deemed the consideration-money or part of the consideration-money (as the case may be) in respect whereof the duty chargeable under the first schedule to this Act shall be paid,

notwithstanding the purchaser is not or does not become personally liable for such debt or sum,

or does not agree to pay the same, or to indemnify the seller against the same.

(*c.*)—When one property is exchanged for another, and no money is paid for equality, the value of either property shall be set forth as aforesaid in the instrument of exchange: but where money is paid for equality, the amount so paid and the value of the property least in value shall be set forth as last aforesaid.

(*d.*)—When property is conveyed by way of gift the value of the property shall be set forth as aforesaid in the instrument of gift.

CHAPTER IV.

UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

Instruments produced in Court to be examined.

30. Every Judge and head of a public office before whom any instrument chargeable with stamp-duty under this Act is produced, shall by himself or (in the case of the Judge of a High Court or a District Court) by such officer as the Court appoints in this behalf, examine such instrument in order to ascertain whether the proper stamp-duty has been paid in respect thereof.

If such duty has not been paid in respect of such instrument, such Judge, head or officer, as the case may be, shall impound the same.

Instruments not duly stamped inadmissible in evidence.

31. No instrument chargeable under the first or second schedule shall be received in any Court of justice, or by any person having by law or consent of parties authority to receive evidence, as evidence in any civil proceeding, unless such instrument is duly stamped:

Provided that the Court or person having authority to receive evidence may, on the application of the person producing the instrument or his duly authorized agent, and on payment of the duty with which such instrument is chargeable or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with interest on the amount so paid at the rate of *five* per cent. per annum from the date of the instrument,

and on payment of an additional duty of four times the proper stamp-duty or deficient portion thereof,

receive the instrument in evidence.

Admission in criminal cases of documents for which proper fee has not been paid.

32. Whenever the filing or exhibition in a criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 30 or 31 shall be deemed to prohibit such filing or exhibition except in cases under chapter XL of the Code of Criminal Procedure.

Procedure as to instruments impounded under section 30, and not received in evidence.

33. The Judge or person having authority to receive evidence shall send to the Collector—

(*a*) every instrument impounded under section 30, and not received in evidence;

(*b*) an authenticated copy of every instrument so impounded, which has been received in evidence, together with a certificate in writing, stating the amount levied under section 31 in respect of such instrument.

No instrument impounded under section 30, and received in evidence, shall be returned to the person producing it unless and until the Collector informs the Court that its detention is no longer necessary.

Impounding unstamped instruments in public office.

34. When any instrument is produced before any registering officer, or in any public office other than a civil or criminal Court, if it appear to the registering officer or to the head of such public office that the instrument is not duly stamped, he shall impound the instrument, and (unless he himself be the Collector) send it forthwith to the Collector.

Powers of Collector as to unstamped or insufficiently stamped instruments other than bills and notes.

35. The Collector on receiving any instrument which has been sent to him under section 33 or 34, or which has come into his hands otherwise than for the purpose of obtaining an adjudication under section 43, shall determine the duty (if any) with which the instrument is chargeable.

Certificate.

If it appear to him that the instrument is duly stamped, or that it is not chargeable with stamp-duty under the law in force in British India at the time of its execution, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and he shall thereupon return such instrument to the person by whom it was produced or in whose possession it was found.

If it appears to him that the instrument is not duly stamped, the Collector shall require the person producing it, or in whose possession it has been found, to pay the proper stamp-duty or the amount required to make up the sum together with interest thereon at five per cent. per annum from the date of the instrument, and in case of failure to pay such duty and interest within fifteen days, the Collector may recover the same as if it were an arrear of land-revenue.

The Collector may also prosecute any person who appears to have committed an offence against the stamp law with reference to such instrument, or to any instrument of which an authenticated copy has been sent to him under section 33.

Endorsement of instruments on which duty has been paid under section 31 or 35.

36. When the stamp-duty with which any instrument is chargeable has been paid or recovered under section 31 or section 35, the Judge or the Collector, as the case may be, shall certify by endorsement thereon that the proper stamp-duty has been levied upon it.

Every instrument so endorsed shall be returned on application to the person who produced it, or in whose possession it was found, provided that no instrument in respect of which a prosecution has been instituted shall be so returned until the prosecution has terminated.

Subject to the provision contained in section 48, such certificate shall be conclusive evidence of the amount of stamp-duty leviable on the instrument, which shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

Right of person paying duty under section 31 or 35 when he is not bound to provide stamp.

37. When any duty has been levied under section 31 or section 35 from a person who is not bound under section 15 to provide the proper stamp, he shall be entitled, on production of the certificate mentioned in section 36 in a Civil Court of competent jurisdiction, to a decree against the person so bound under section 15 for the amount so levied.

Instruments chargeable with one anna duty.

38. Nothing contained in sections 31 and 35 applies to instruments chargeable with the duty of one anna only. Subject to the provisions of section 18, no such instrument shall be received in evidence for any purpose whatever, or be registered unless it has been stamped at the time of its execution or in accordance with the provisions of section 17.

Non-liability for loss of instruments sent under section 18, 33 or 34.

39. If any instrument sent or returned under section 18, 33 or 34, be lost, destroyed or injured during transmission, the Court or officer sending or returning the same shall not be liable for such loss, destruction or injury.

The person producing any such instrument under section 30 or section 34 may require a copy thereof to be made at his expense and authenticated by the Judge, the registering officer, or the head of the office, as the case may be; and such copy shall be kept in the Court or Office until the Judge, registering officer, or head otherwise directs.

Procedure where receipts are required.

40. When any person from whom money or other moveable property exceeding in amount or value ten rupees is due or claimed to be due, pays or delivers such money or property, the person to whom the same is paid or delivered shall give a receipt for such money or property.

Stamping unstamped receipts.

41. When any receipt comes unstamped to the hands of the person to whom it is given, he may affix thereto the necessary adhesive stamp, and upon so doing may require the person who gave it to pay the value of the said stamp.

Cancellation of adhesive stamps.

42. Whoever affixes, in accordance with the stamp law, any adhesive stamp to any instrument liable to duty shall, at the time of affixing the same, cancel such stamp by writing across it his name or initials, or, if he be a partner, the name or initials of his firm, together with the true date of his so writing, so that the stamp may be effectually cancelled and rendered incapable of being used for any other instrument.

CHAPTER V.

ADJUDICATION OF DOUBTS AS TO STAMPS.

Adjudication of doubt as to proper stamp.

43. When any instrument chargeable with stamp-duty under this Act, whether previously stamped or not, is brought to the Collector, and the person bringing it desires to have the opinion of that officer as to the duty with which it is so chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall assess and charge the duty to which, in his judgment, the instrument is liable; and upon payment of such duty or of such a sum as, with the duty already paid thereon, is equal to the duty so assessed and charged, shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable under this Act has been paid.

The instrument shall thereupon be deemed to be duly stamped and shall be receivable in evidence or otherwise in all Courts and public offices as if originally executed on paper duly stamped:

Provided that nothing contained in the former part of this section shall authorize the Collector to make any such endorsement—

(*a*) on any instrument executed in British India and brought to him after the expiration of one month from the date of its execution:

(*b*) on any instrument executed out of British India and brought to him after the expiration of two months after its arrival in British India: or

(*c*) on any instrument chargeable with the stamp-duty of one anna, when brought to him after the drawing or execution thereof on paper not duly stamped.

Payments under section 43 how made.

44. The whole or any part of any payment under section 43 shall be made in stamps or in cash, as the Governor General in Council may from time to time direct by rules under section 101.

CHAPTER VI.

REFERENCE AND REVISION.

45. (*a.*)—The Chief Controlling Revenue Authority may state any case coming before it under this Act, and refer such case with its own opinion thereon, if the case arise in the Presidency of Fort Saint George or the Presidency of Bombay, to the local High Court: if it arise in the North-Western Provinces or Oudh, to the High Court of Judicature for the North-Western Provinces: if it arise in the Panjáb, to the Chief Court of the Panjáb: if it arise in the Central Provinces, to the High Court of Judicature at Bombay: and if it arise in any other part of British India, to the High Court of Judicature at Fort William.

Reference to High Court.

(*b.*)—Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

(*c.*)—If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue Authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

(*d.*)—The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded: and it shall send to the Revenue Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving the same, dispose of the case conformably to such judgment.

46. If any Collector entertains doubt as to the amount of stamp-duty chargeable on any instrument, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue Authority, and such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty in conformity with such decision.

Procedure where Collector entertains doubt as to duty chargeable.

47. If any Court other than a High Court entertains doubt as to the amount of stamp-duty chargeable on any instrument produced before it, the Judge may draw up a statement of the case and refer it with his own opinion thereon for the decision of the High Court to which he is subordinate, and such Court shall consider the case and send a copy of its decision to the Judge making the reference who shall dispose of the case conformably to such decision.

Procedure where Court entertains doubt as to duty on instrument.

48. When any subordinate civil Court makes any certificate or order under this Act or improperly admits in evidence any instrument not duly stamped, the Court to which an appeal lies from the decrees of such subordinate Court, or the High Court may—

Revision of certificates and orders.

(*a*) call for and revise such certificate or order, or

(*b*) direct the proper stamp-duty and additional duty to be levied on the instrument so admitted, or

(*c*) pass such other order in the matter as it thinks fit.

All duty directed to be levied under this section, may be levied as if it were an arrear of land-revenue.

All certificates and orders of the Collector under this Act shall be open to revision by the Revenue Authority to which he is immediately subordinate, or by the Chief Controlling Revenue Authority:

Provided that no order passed on the revision of any certificate or order under this section shall invalidate any registration or other proceeding, previously made or taken, of or upon an instrument endorsed by the Judge or Collector under section 36 or section 43.

CHAPTER VII.

FEES IN THE CHARTERED HIGH COURTS.

49. The following fees shall be collected by adhesive stamps (namely):—

Levy of fees in High Courts on their original sides.

(*a*) fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Courts established by Letters Patent, by virtue of the power conferred by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15;

(*b*) fees chargeable in each of such Courts under No. 14 of the fourth, and Nos. 16, 23, 24, 27 and 28, of the fifth, schedule.

50. No document of any of the kinds specified in the fourth or fifth schedule as chargeable with fees, shall be filed, exhibited or recorded in, or shall be received or furnished by, any of the said High Courts in any case coming before such Court in the exercise of its extraordinary original civil jurisdiction;

Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction.

or in the exercise of its extraordinary original criminal jurisdiction;

or in the exercise of its jurisdiction as regards appeals from the judgment of two or more Judges of the said Court, or of a Division Court;

In their appellate jurisdiction.

or in the exercise of its jurisdiction as regards appeals from the Courts subject to its superintendence;

As Courts of reference and revision.

or in the exercise of its jurisdiction as a Court of reference or revision;

unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the same schedules as the proper fee for such document.

51. When any difference arises between the officer whose duty it is to see that any fee is paid under this chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in any

Procedure in case of difference as to necessity or amount of fee.

of the said High Courts, be referred to the Taxing-officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of such High Court, or of such Judge of the High Court as the Chief Justice appoints either generally or specially in this behalf.

The Chief Justice shall declare who shall be Taxing-officer within the meaning of this section.

52. Nothing in this chapter applies to the commission payable to the Accountant General of the High Court at Fort William, or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

Saving of fees to certain officers of High Court.

CHAPTER VIII.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

53. Except in the Courts mentioned in Chapter VII, and subject to the exemptions contained in schedule six, no document of any of the kinds specified as chargeable in the said fourth or fifth schedule shall be filed, exhibited or recorded in any Court of justice, or shall be received by any public officer, or granted under his seal or signature, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of such schedules as the proper fee for such document.

Fees on documents filed, &c., in Mufassal Courts or in public offices.

54. If any such document is through mistake or inadvertence received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Power to stamp document inadvertently received.

55. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, and the duty with which it is chargeable is not thereby increased, it shall not be necessary to impose a fresh stamp.

Amended document.

56. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:—

Computation of fees payable in certain suits:

i. In suits for money (including suits for damages or compensation, or arrears of maintenance, or annuities or of other sums payable periodically)—according to the amount claimed:

for money:

ii. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year:

for maintenance and annuities

iii. In suits for moveable property other than money, where the subject-matter has a market-value—according to such value at the date of presenting the plaint:

for other moveable property having a market-value:

iv. In suits—

(*a*) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

for moveable property of no market-value:

(*b*) to enforce the right to share in any property on the ground that it is joint family property,

to enforce a right to share in joint family property.

(*c*) to obtain a declaration under the Specific Relief Act, section 42,

for a declaratory decree:

(*d*) to obtain an injunction,

for an injunction:

(*e*) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for easements:

(*f*) for accounts—

for accounts:

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought:

v. In suits for the possession of land, houses and gardens—according to the value of the subject-matter; and such value shall be deemed to be—

for possession of land, houses and gardens:

where the subject-matter is land, and—

(*a*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled—

ten times the revenue so payable:

(*b*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid;

and such revenue is settled, but not permanently—

five times the revenue so payable:

(*c*) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such nett profits:

but where no such nett profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood:

(*d*) where the land forms part of an estate paying revenue to Government, but is not a definite

share of such estate and is not separately assessed as abovementioned—the market-value of the land:

Proviso as to Bombay Presidency.

Provided that, in the territories subject to the Governor of Bombay in Council, the value of the land shall be deemed to be—

(1) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government—a sum equal to five times the survey-assessment;

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment; and

(3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted.

Explanation.—The word "estate," as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or a farmer or ryot shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue.

(*e*) Where the subject-matter is a house or garden—according to the market-value of the house or garden:

for houses and gardens:

vi. In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph v of this section) of the land, house or garden in respect of which the right is claimed:

to enforce a right of pre-emption:

vii. In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint:

for interest of assignee of land-revenue:

viii. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached:

to set aside an attachment:

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest:

ix. In suits against a mortgagee or incumbrancer for the recovery of the property mortgaged, or to have the instrument of charge cancelled,

to redeem:

and in suits by a mortgagee to foreclose the mortgage,

to foreclose:

or where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money for the time being secured by the instrument of mortgage or charge:

for specific performance.

x. In suits for specific performance—

(*a*) of a contract of sale—according to the amount of the consideration:

(*b*) of a contract of mortgage—according to the amount agreed to be secured:

(*c*) of a contract of lease—according to the aggregate amount of the fine or premium (if any), and of the rent agreed to be paid during the first year of the term:

(*d*) of an award—according to the amount or value of the property in dispute:

between landlord and tenant.

xi. In the following suits between landlord and tenant, (namely)—

(*a*) for the delivery by a tenant of the counterpart of a lease,

(*b*) for the delivery by a landlord of a lease,

(*c*) to contest a notice of ejectment,

(*d*) to recover the occupancy of land from which a tenant has been illegally ejected by the landlord, and

(*e*) to establish a right of occupancy—

according to the amount of the rent of the land to which the suit refers, payable for the year next before the date of presenting the plaint,

(*f*) to enhance the rent of a tenant having a right of occupancy, and

(*g*) to abate the rent of any tenant,—

five times the amount by which the rent is sought to be enhanced or abated.

The plaint or memorandum of appeal in every suit or appeal mentioned in this section shall state the amount or value with reference to which the fee payable in respect of such plaint or memorandum is to be computed.

Fees in certain suits by Government ryots in Madras.

57. Notwithstanding anything herein contained, throughout the territories subject to the Governor of Fort St. George in Council, the fees payable in suits by Government ryots for the recovery of land sold for arrears of revenue shall not exceed the amount which would be payable if the value of the subject-matter were only the rent of the land payable for the year next before the date of presenting the plaint.

Fee on memorandum of appeal against order relating to compensation.

58. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

Power to ascertain nett profits or market-value.

59. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in section 56, clauses v and vi, have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Procedure where nett profits or market-value wrongly estimated.

60. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee: but if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated:

In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.

61. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

When the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Decision of questions as to valuation.

62. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal, shall (subject to the provisions of section 54, clause (*b*) and section 588, clause (*c*) of the Code of Civil Procedure) be decided by the Court in which such plaint or memorandum, as the case may be, is filed.

Where any suit or appeal in which any such question has arisen comes before a Court of appeal, reference or revision, and such Court considers that the said question has been wrongly decided, to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of the second paragraph of section 60 shall apply.

Additional fee where respondent takes objection to unappealed part of decree.

63. When any appeal is presented to a civil Court, not against the whole of a decision, but only against so much thereof as relates to a portion of the subject-matter of the suit, the memorandum of appeal shall be chargeable with the fee which would have been payable if the subject-matter had been such portion only; and, if on the hearing of such appeal, the respondent takes, under section 561 of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional fee which would have been payable had the appeal comprised the part of the decision so objected to.

Suit comprising more than one subject.

64. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, section 45.

Cancellation of stamp.

65. No document mentioned in Schedule IV or Schedule V and requiring an adhesive stamp under the rules for the time being in force under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled in manner prescribed by such rules.

Written examinations of complainants.

66. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police-officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.

Repayment of fees paid on applications to criminal Courts.

67. Whenever an application or petition containing a complaint or charge of an offence, other than an offence for which police-officers may arrest without warrant, is presented to a criminal Court, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee paid on such application or petition.

In the case mentioned in section 66, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee, if any, paid by the latter for the examination.

When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this section, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay such fees to the complainant.

All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

CHAPTER IX.

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

Relief where too high a court-fee has been paid on probate or letters of administration.

68. Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Court by which the probate or letters has or have been granted,

and delivers to such Court a particular inventory and valuation of the property of the deceased verified by affidavit or affirmation,

and if such Court is satisfied that a greater fee was paid on the probate or letters than the law required,

the said Court may at its discretion—

(*a*) cancel the stamp on the probate or letters, if such stamp has not been already cancelled;

(*b*) order that another stamp be substituted for denoting the court-fee which should have been paid thereon; and

(*c*) order that an allowance for the difference between them, or a refund of the amount in money, be made as in the case of spoiled stamps.

Relief where debts due from a deceased person have been paid out of his estate.

69. Whenever it is proved to the satisfaction of such Court that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act,

the Court may order the amount of the difference to be refunded, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the Court may allow such further time for making the claim as may appear to be reasonable under the circumstances.

Relief in case of several grants.

70. Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

Probates declared valid as to trust-property though not covered by court-fee.

71. The probate of the will, or the letters of administration of the effects, of any person deceased, heretofore or hereafter granted, shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration.

Provision for case where too low a court-fee has been paid on probates, &c.

72. When any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Court by which the probate or letters has or have been granted, may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value, and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or if it or they is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters:

Provided that, if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters, and if the Court is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper court-fee, the Court may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

Administrator to give proper security before letters stamped under section 79.

73. In case of letters of administration on which too low a court-fee has been paid at first, the said authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had then been ascertained.

Executors, &c., not paying full court-fee on probates, &c., within six months after discovery of underpayment.

74. Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent. on the amount of the sum wanting to make up the proper court-fee.

Collector to deliver or pay stamp or amount directed by Court.

75. When any Court orders under this chapter any stamp to be substituted or amount to be refunded, such stamp or amount shall be delivered or paid by any Collector to the person producing the Court's order or certificate authorizing such delivery or payment.

This chapter applied to certificates under Acts XL of 1858, XXVII of 1860 and XX of 1864.

76. The provisions of this chapter shall, *mutatis mutandis*, apply to certificates granted under Act No. XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), or Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), or Act No. XX of 1864 (*for making better provision for the care of the persons and property of Minors in the Presidency of Bombay*), or Bombay Regulation VIII of 1827 (*to provide for the formal recognition of Heirs, Executors and Administrators, and for the appointment of Administrators and Managers of property by the Courts*), and to the holders of such certificates.

CHAPTER X.

REFUNDS.

Allowance for spoiled stamps.

77. Subject to such rules as may from time to time be made by the Governor General in Council as to the evidence, by affidavit or otherwise, which the Collector may require, allowance shall be made by the Collector for stamps spoiled in the cases hereinafter mentioned (that is to say):—

(1.) The stamp on any paper inadvertently and undesignedly spoiled, obliterated, or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any party, and for which stamp no money or other consideration has been paid or given to the attorney, pleader, or other person employed to transact the business intended to have been carried into execution thereby, or to the person by whom the same was written:

(2). Any adhesive stamp which has never been used or affixed to any paper, but which has been inadvertently and undesignedly spoiled or rendered unfit for use:

(3.) The stamp used or intended to be used for any bill of exchange or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of the hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negociated, issued, or put in circulation, or made use of in any other manner whatever, and which being a bill of exchange has not been accepted by the drawee, and provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange to be afterwards written thereon:

(4.) The stamp used or intended to be used for any bill of exchange or promissory note signed by or on behalf of the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange, may have been presented for acceptance or accepted or endorsed, or being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped bill of exchange or promissory note is produced identical in every particular, except in the correction of such error or omission as aforesaid, with the spoiled bill or note:

(5.) The stamp used for any of the following instruments, that is to say:—

(*a*) an instrument executed by any party thereto, but afterwards found to be absolutely void in law from the beginning:

(*b*) an instrument executed by any party thereto, but afterwards found unfit by reason of any error or mistake therein for the purpose originally intended:

(*c*) an instrument executed by any party thereto, but which by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to effect the intended transaction in the form proposed:

(*d*) an instrument executed by any party thereto, which for want of the execution thereof by some material and necessary party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended:

(*e*) an instrument executed by any party thereto, which by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted totally fails of the intended purpose:

(*f*) an instrument executed by any party thereto, which for want of registration within the time required by law becomes null and void:

(*g*) an instrument executed by any party thereto, which becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped:

(*h*) an instrument executed by any party thereto, which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided as follows:—

(1.) that in the case of an executed instrument,

(*a*) that instrument is given up to be cancelled:

(*b*) the application for relief is made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where from unavoidable circumstances any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent abroad, and in that case within six months after it has been received back in any part of British India:

(*c*) no suit has been instituted in which the instrument could or would have been given or offered in evidence:

(2.) that in the case of stamped paper, not having any executed instrument written thereon, and of an adhesive stamp not affixed to any material, the application for relief is made within six months after the stamp has been spoiled as aforesaid.

Allowance for misused stamps.

78. When any person has inadvertently used for an instrument liable to duty a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not liable to any duty, the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within

six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if liable to any duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused.

Allowance how to be made.

79. In any case in which allowance is made for spoiled or misused stamps the Collector may give in lieu thereof other stamps of the same denomination and value, or, if required, and he thinks proper, stamps of any other denomination to the same amount in value, or, at his discretion, the same value in money, deducting the proper allowance on the purchase from Government of stamps of the like description.

Repurchase of stamps not wanted.

80. When any person is possessed of a stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector may, if he in his discretion think fit, repay to the applicant the amount or value of such stamp in money, deducting the proper discount, upon his delivering up the stamp to be cancelled, and proving to the Collector's satisfaction that it was purchased by the applicant with a *bonâ fide* intention to use it, and that he has paid the full value thereof without any deduction (except only the amount of such discount), and that the stamp was so purchased within the period of six months next preceding the application.

Refund of fee paid on memorandum of appeal.

81. If a plaint or appeal which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in section 562 of the same Code, for a second decision by the lower Court, the appellate Court may grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

Provided that, if, in the case of a remand in appeal, the order of remand does not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

Refund of fee on application for review of judgment.

82. When an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

Refund where Court reverses or modifies its former decision on ground of mistake.

83. When an application for a review of judgment is admitted, and on the re-hearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector the fee paid on the application.

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

Refund where plaint rejected for merely technical defect.

84. When a plaint disclosing a reasonable case on the merits is presented to any civil Court in such a form that the Judge rejects it, not for any substantial defect, but on account of a purely technical error in form only, and so as to leave the plaintiff free to prosecute the same case in another form against the same defendant, the value of the stamp on the plaint shall be refunded to the plaintiff on his presenting an application to the Collector of the District in which the Court is situate, together with a certificate from the Judge who rejected the plaint, that it was rejected under the circumstances above described and that in his opinion the value of the stamp should be refunded.

Remission of additional duty levied under section 31.

85. The Chief Controlling Revenue Authority may upon application remit wholly or in part any additional duty levied under section 31.

CHAPTER XI.

CRIMINAL PENALTIES.

Penalty for executing instrument on paper not duly stamped.

86. Any person making, signing or issuing, or, except as provided in section 18, accepting, endorsing, paying, or receiving payment of any bill of exchange, promissory note, cheque, or other similar instrument liable to any of the duties hereby imposed, without the same being duly stamped,

and any person making, executing or signing otherwise than as a witness any other instrument liable to any of such duties without the same being duly stamped,

shall, for every such offence, be liable to a fine not exceeding two hundred rupees.

Penalty for presenting, &c., unstamped foreign bills or notes.

87. Any person presenting for acceptance or for payment, or accepting, paying, endorsing, transferring or in any manner negociating, any bill of exchange or promissory note drawn or made out of British India whereon there is not such stamp as is required by this Act, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Refusal to give receipt.

88. Any person required by section 40 to give a receipt and refusing or neglecting to give the same shall be liable for every such offence to a fine not exceeding one hundred rupees.

Penalty for failure to cancel such stamps.

89. Any person required to cancel an adhesive stamp in manner directed by section 42, and refusing or neglecting so to do, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

90. When a bill of exchange or policy of insurance purports to be drawn or executed in a set of two or more, any person using the second or third of a set, the first of which has not been duly stamped, shall, for every such offence, be liable to a fine not exceeding one thousand rupees.

Penalty for not stating consideration.

91. If the full consideration-money or value is not set forth in any instrument as required by section 29, the grantor and grantee shall each be liable to a fine not exceeding five hundred rupees, and shall also pay a fine of five times the amount of the excess of duty with which such instrument would have been chargeable under this Act, if the full consideration-money or value had been duly set forth in such instrument, in addition to the duty actually paid for the same.

Penalty on attorneys, &c., not inserting true consideration.

92. Any attorney, vakíl, pleader, mukhtár or other person employed in or about the preparing of any instrument in or upon which the full consideration-money or value is hereby required to be truly set forth,

or employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned,

who knowingly inserts or sets forth, or causes to be inserted or set forth, in or upon any such instrument any other than the full consideration-money or value,

shall, for every such offence, pay a fine not less than five hundred rupees and not exceeding five thousand rupees.

Every attorney, vakíl, pleader and mukhtár convicted under this section shall, from the date of such conviction, be disabled to practise as an attorney, vakíl, pleader or mukhtár:

Provided that no person shall be liable to any penalty or disability under this section, unless the duty actually paid for the instrument is less than would have been payable for the same in case the consideration-money or value had been truly set forth as aforesaid.

Fraudulent removal, sale, &c., of adhesive stamps.

93. Whoever commits any of the following offences (namely):—

(*a*) fraudulently removes or causes to be removed from any instrument any adhesive stamp or affixes any adhesive stamp which has been so removed to any other instrument with intent that such stamp may be used again;

(*b*) sells or offers for sale or utters any adhesive stamp which has been so removed, or utters any instrument having thereon any adhesive stamp which has to his knowledge been so removed as aforesaid;

(*c*) practises or is concerned in any fraudulent act, contrivance or device not specially provided for, with intent to defraud the Government of any stamp-duty or court-fee,

shall forfeit, over and above any other penalty to which he may be liable, the sum of five hundred rupees, and in default of payment shall be imprisoned for a term which may extend to six months.

Penalty for stamp-vendor disobeying rules.

94. Any person appointed to sell stamps, who knowingly disobeys any rule made under section 101, and any person not so appointed who sells or offers for sale any stamp, shall be punished with simple imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Reward to informers.

95. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half to the person on whose information the offender has been convicted.

Institution and conduct of prosecutions.

96. All prosecutions in respect of any offence punishable by this Act, shall be conducted by the Collector or such other officer as the Local Government generally or the Collector specially authorizes in that behalf.

Magistrates having jurisdiction.

97. Offences punishable under this Act may be tried, within the limits of the towns of Calcutta, Madras and Bombay, by a Magistrate of Police, and, beyond those limits, by a Magistrate of the first class or a Magistrate of the second class:

Provided that, in imposing penalties under this Act, no such person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure.

CHAPTER XII.

MISCELLANEOUS.

Employment of single impressed stamp.

98. When an impressed stamp is used to defray the amount of duty with which any instrument is chargeable, such amount shall be defrayed by a single stamp, except when such amount exceeds one thousand rupees, in which case it may be defrayed by two or more impressed stamps of which the aggregate amount is the amount so required:

Provided that, when a single impressed stamp of any amount less than one thousand rupees is not procurable on application to the Collector or stamp-vendor appointed under the rules hereinafter mentioned, it shall be lawful, on such officer making a certificate to that effect, for the person requiring such stamp to defray the amount by two or more impressed stamps, of which the aggregate amount is the amount so required.

Employment of several stamped papers.

99. When more stamped papers than one are used under section 98 for an instrument chargeable with stamp-duty under this Act, each paper so used shall contain a part of the instrument.

Power to reduce or remit rates of stamp-duty.

100. The Governor General in Council may from time to time, by order published in the *Gazette of India*, reduce or remit, in the whole or any part of British India, the duties or fees chargeable under this Act on all or any of the instruments mentioned in the schedules, or on any particular class of such instruments, or on any of the instruments belonging to such class, or on any of the instruments mentioned in the schedules when executed or granted by or to any particular class of persons, or by or to any members of such class,

and may in like manner cancel or vary such order to the extent of the powers hereby given.

Every such cancelment or variation shall be published in the *Gazette of India*.

Power to make subsidiary rules.

101. The Governor General in Council may from time to time frame rules consistent with this Act for regulating the following matters:—

(*a*) the description of stamp for denoting the duty or fee chargeable on every instrument under the stamp law:

(*b*) the supply and sale of stamps, the persons by whom such sale is to be conducted, and the duties and remuneration of such persons:

(*c*) the size and shape of the stamped paper to be used for bills of exchange:

(*d*) the classes of officers to be empowered to perform the functions of a Collector under chapter X, and the evidence which the Collector and such officers may require:

(*e*) the mode of cancelling court-fee stamps and the persons by whom such cancellation is to be effected:

(*f*) the keeping accounts of all stamps used under chapters VII and VIII:

Approval and publication of rules.

Such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

SCHEDULE I.

AD VALOREM STAMP-DUTIES.

DESCRIPTION OF INSTRUMENTS.					PROPER STAMP-DUTY.
Class I.					
1. BILL OF EXCHANGE PAYABLE AT SIGHT OR AT ANY PERIOD NOT EXCEEDING ONE YEAR AFTER DATE OR SIGHT.*	When the amount of the Bill or Note does not exceed ...		...	Rs. 100	Two annas.
2. PROMISSORY NOTE SO PAYABLE.	and when the amount exceeds ...	Rs. 100	but does not exceed ...	250	Four annas.
	Do. ...	250	do. ...	500	Eight annas.
	Do. ...	500	do. ...	750	Twelve annas.
	Do. ...	750	do. ...	1,000	One rupee.
	and for every 1,000 or part thereof in excess of		...	1,000	One rupee.
3. INSTRUMENT EVIDENCING AN AGREEMENT TO SECURE THE REPAYMENT ON OR BEFORE THE EXPIRATION OF THREE MONTHS FROM THE DATE OF SUCH INSTRUMENT OF A LOAN MADE UPON THE DEPOSIT OF TITLE DEEDS OR OTHER VALUABLE SECURITY.	...		...		One-half of the stamp-duty payable on a Bill of Exchange for the amount secured.
4. POLICY OF INSURANCE.*					
Class II.					
5. BOND (NOT OTHERWISE PROVIDED FOR BY THIS ACT) FOR ANY SPECIFIED AMOUNT.	When the amount secured does not exceed ...			50	Four annas.
6. BOTTOMRY-BOND...	When such amount exceeds ...	50,	but does not exceed ...	100	Eight annas.
7. RESPONDENTIA-BOND.	and for every...	100	or part thereof in excess of...	100	
8. SETTLEMENT.			up to ...	1,000	Eight annas.
	and for every...	1,000	or part thereof in excess of	1,000	Five rupees.

* NOTE.—When any bill or policy coming under No. 1 or No. 4 is drawn in a set, the proper stamp shall be borne by the first of the set, and the remaining parts must be stamped by the Collector "duty-paid."

SCHEDULE I—*continued.*

AD VALOREM STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.			PROPER STAMP-DUTY.
		Rs.	
9. BILL OF EXCHANGE PAYABLE AT A PERIOD EXCEEDING ONE YEAR AFTER DATE OR SIGHT.	...	...	The same duty as a Bond (No. 5) for the amount of such Bill or Note.
10. PROMISSORY NOTE SO PAYABLE.			
11. PARTITION-DEED	...	...	The same duty as a Bond (No. 5) for an amount equivalent to the value of the entire property distributed.
12. ASSIGNMENT (OTHERWISE THAN BY INDORSEMENT) OF ANY INTEREST SECURED BY A BOND, MORTGAGE-DEED, OR POLICY OF INSURANCE.	(*a*). When the amount or value of such interest does not exceed ...	 1,000	The same duty as a Bond (No. 5) for such amount or an amount equivalent to such value.
	(*b*). In any other case ...	...	Five rupees.
13. ADMINISTRATION-BOND.			
14. BOND OR MORTGAGE-DEED FOR THE EXECUTION OF AN OFFICE, OR TO ACCOUNT FOR MONEY RECEIVED BY VIRTUE THEREOF.	(*a*). When the amount secured does not exceed ...	1,000	The same duty as a Bond (No. 5).
	(*b*). In any other case ...	...	Five rupees.
15. CUSTOMS-BOND ...			
16. INDEMNITY-BOND.			
17. APPRAISEMENT OR VALUATION— OF ANY PROPERTY OR OF ANY INTEREST THEREIN, OR OF THE ANNUAL OR MONTHLY VALUE OF SUCH PROPERTY, OR OF ANY REPAIRS WANTED, OR OF THE MATERIALS USED OR TO BE USED IN ANY BUILDING, OR OF ANY ARTIFICER'S WORK.	(*a*). Where the amount of such appraisement or valuation does not exceed ...	1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case ...	...	Five rupees.

SCHEDULE I—*continued.*

AD VALOREM STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
18. AWARD	(*a*). Where the amount or value of the property in dispute does not exceed Rs. 1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case ...	Five rupees.
Class III.		
19. CONVEYANCE ...	When the amount paid or secured or the value expressed does not exceed 50	Eight annas.
	Exceeds ... 50 but does not exceed 100	One rupee.
20. INSTRUMENT OF GIFT, OR EXCHANGE OF ANY PROPERTY, NOT OTHERWISE PROVIDED FOR.	For every ... 100 or part thereof in excess of Rs. 100 up to ... 1,000	One rupee.
	and for every 1,000 or part thereof in excess of 1,000	Ten rupees.
21. TRANSFER OF A SHARE IN A COMPANY OR ASSOCIATION.	... ...	One-quarter of the duty payable on a Conveyance.
Class IV.		
22. MORTGAGE-DEED 23. INSTRUMENT OF FURTHERCHARGE ON THE MORTGAGED PROPERTY.	(*a*). When possession of the property comprised therein is not given by the mortgagor at the time of execution.	The same duty as a Bond (No. 5) for the amount secured by such deed or instrument.
	(*b*). When possession of the property comprised therein is given by the mortgagor at the time of execution.	The same duty as a Conveyance for a consideration equivalent to the amount secured by such deed or instrument.
24. RELEASE OF ANY CLAIM OVER PROPERTY, WHETHER SECURED BY MORTGAGE-DEED OR NOT.	(*a*). If the amount of the claim does not exceed ... 1,000	The same duty as a Bond (No. 5) for such amount.
	(*b*). In any other case ...	Five rupees.
25. RECONVEYANCE OF MORTGAGED PROPERTY.	(*a*). If the consideration for which property was mortgaged does not exceed... 1,000	The same duty as a Conveyance.
	(*b*). In any other case ...	Ten rupees.

SCHEDULE I—*concluded.*

AD VALOREM STAMP-DUTIES.—*concluded.*

DESCRIPTION OF INSTRUMENTS.		PROPER STAMP-DUTY.
26. LEASE	(*a*). Where the lease is expressed to be for a term—	
	(*aa*) of less than one year ...	The same duty as a Bond (No. 5) for the whole amount payable under such lease.
	(*bb*) of not less than one year, but not more than three years.	The same duty as a Bond (No. 5) for the average annual rent reserved.
	(*cc*) exceeding three years, or where no term is expressed.	The same duty as a Conveyance for a consideration equal to the amount of the average annual rent reserved.
	(*b*). Where the lease is granted for a fine or premium, and where no rent is reserved.	The same duty as a Conveyance for consideration equal to the amount of such fine.
	(*c*). Where the lease is granted for a fine or premium in addition to rent reserved.	The same duty as a Conveyance for consideration equal to the amount of such fine, in addition to the duty payable on such lease if no fine or premium had been paid.
27. SURRENDER OF LEASE.	(*a*). When the duty payable on the lease does not exceed five rupees.	The same duty as is payable on the lease.
	(*b*). In any other case	Five rupees.
28. COPY, DUPLICATE OR EXTRACT ATTESTED TO BE A TRUE COPY, DUPLICATE OR EXTRACT, AND NOT PROVIDED FOR IN THE FOURTH OR FIFTH SCHEDULE.	(*a*). If the duty payable on the original does not exceed eight annas.	The same duty as is payable on the original.
	(*b*). In any other case	Eight annas.
29. COUNTERPART OF ANY INSTRUMENT UPON WHICH DUTY IS PAYABLE.	(*a*). If the duty payable on the original instrument is less than one rupee.	The same duty as is payable on the original.
	(*b*). In any other case	One rupee.

SCHEDULE II.

FIXED STAMP-DUTIES.

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
I.	
1.—AGREEMENT OR MEMORANDUM OF AN AGREEMENT relating to the sale of any Government Security, Share in a Company or Association, or Bill of Exchange	One anna.
2.—BILL OF EXCHANGE, PROMISSORY NOTE, CHEQUE OR ORDER for the payment on demand of an amount exceeding ten rupees	
3.—CERTIFICATE OR OTHER DOCUMENT purporting to denote the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Association, or proposed Company or Association, or to become proprietor of shares, scrip or stock in or of any such Company or Association ...	
4.—DELIVERY ORDER	
5.—LETTER OF CREDIT	
6.—LETTER OF ALLOTMENT OF SHARES in any Company or proposed Company, or in any loan to be raised by any Company or proposed Company	
7.—NOTE OR MEMORANDUM written in any book, or written on a separate paper, whereby any account, debt or demand or any part of any account, debt or demand therein specified and amounting to ten rupees or upwards, is expressed to have been balanced or is acknowledged to be due (*a*)	
8.—PROXY to vote at any one meeting of—	
(*a*).—Members of a Company or Association whose stock or funds is or are divided into shares and transferable	
(*b*).—Municipal Commissioners	
(*c*).—Justices of the Peace, being a body corporate ...	
(*d*).—Proprietors, members or contributors to the funds of any institution	
9.—RECEIPT OR DISCHARGE	
10.—SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel	
II.	
11.—BILL OF LADING (*b*)	Four annas.
12.—DOCK-WARRANT	
13.—INSTRUMENT OF EXCHANGE whereby the owner or occupier of land in a village in the Presidency of Bombay relinquishes his rights therein to the Local Government, upon the site of the village being changed, and accepts rights in other land in exchange for the rights so relinquished	

NOTES.—(*a*). If the acknowledgment is accompanied by any promise to pay the amount acknowledged or any part thereof, the provisions of section 28 apply.

(*b*). When a Bill of lading is drawn in sets, the proper stamp therefor must be borne by each one of the sets.

SCHEDULE II—*continued.*

FIXED STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
III.	
14.—AGREEMENT by the acceptor of the occupancy of land denoted by a survey number to pay revenue therefor under the Bombay Act I of 1865, section 28 (*c*) ...	Eight annas.
15.—AGREEMENT OR MEMORANDUM OF AN AGREEMENT not otherwise provided for by this Act (*d*) ...	
16.—NOTICE OF PROTEST by the master or owner of a ship	
17.—POWER-OF-ATTORNEY for the sole purpose of presenting one or more documents for registration in relation to a single transaction	
IV.	
18.—AFFIDAVIT	One rupee.
19.—CHARTER-PARTY	
20.—COLLATERAL INSTRUMENT	
21.—NOTARIAL ACT	
22.—POWER-OF-ATTORNEY authorizing a person to act in a single transaction, not being the presentation of documents for registration	
23.—PROTESTS—	
A.—Of a Bill of Exchange or Promissory Note ...	
B.—Of the master or owner of a ship	
V.	
24.—CONVEYANCE OF ANY PROPERTY without consideration otherwise than by gift, exchange, or partition ...	Five rupees.
25.—INSTRUMENT OF APPRENTICESHIP	
26.—INSTRUMENT OF DISSOLUTION OF PARTNERSHIP	
27.—INSTRUMENT OF DIVORCE	
28.—POWER-OF-ATTORNEY authorizing a person to act for another in more than one transaction or generally ...	

NOTES.—(*c*). Provided that when the yearly revenue assessed on the land to which such agreement refers is less than eight annas, the agreement shall be subject to duty not exceeding the amount of such revenue.

(*d*). When two or more letters are tendered in evidence to prove any agreement between the writers thereof, it is sufficient if one of such letters is stamped as an agreement.

SCHEDULE II—*continued.*

FIXED STAMP-DUTIES—*continued.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
VI.	
29.—COMPOSITION-DEED	Ten rupees.
30.—INSTRUMENT OF CO-PARTNERSHIP	
31.—INSTRUMENT (OTHER THAN A WILL) PURPORTING TO CONFER AN AUTHORITY TO ADOPT...	
32.—INSTRUMENT OF TRANSFER under the Administrator General's Act (section 31)	
33.—LETTER OF LICENSE	
34.—LICENSE granted under the Arms Act (section 7)	
35.—REVOCATION OF ANY USE OR TRUST of or concerning any property	
36.—THIRD CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*d*)	
37.—THIRD CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) (*d*)	
VII.	
38.—APPOINTMENT in execution of a power, whether of trustees or of property, where made by any writing not being a Will	Fifteen rupees.
39.—DECLARATION OF ANY USE OR TRUST of or concerning any property where made by any writing not being a Will	
40.—ARTICLES OF ASSOCIATION OF A COMPANY ...	
41.—MEMORANDUM OF ASSOCIATION OF A COMPANY	
42.—SECOND CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*e*)	
43.—SECOND CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) (*e*)	
44.—THIRD CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) (*d*)	

NOTES.—(*d*). A third class certificate authorizes—

(1). *A Pleader* to practise in the Courts of Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs.

(2). *A Mukhtár* to practise in the Courts of Commissioners of Circuit, Magistrates, Munsifs, Assistant Commissioners and Extra Assistant Commissioners.

(3). *A Revenue-Agent* to practise in the office of a Collector or any office subordinate thereto.

(*e*). A second class certificate authorizes—

(1). *A Pleader or Mukhtár* to practise in the District Courts and all Courts subordinate thereto.

(2). *A Revenue-Agent* to practise in the office of a Commissioner or any office subordinate thereto.

SCHEDULE II—*concluded.*

FIXED STAMP-DUTIES—*concluded.*

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
VIII.	
45.—FIRST CLASS MUKHTÁR'S CERTIFICATE (under Act XX of 1865) (*f*)	Twenty-five rupees.
46.—FIRST CLASS REVENUE-AGENT'S CERTIFICATE (under Act XX of 1865) (*f*)	
47.—SECOND CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) (*e*)	
IX.	
48.—FIRST CLASS PLEADER'S CERTIFICATE (under Act XX of 1865) (*f*)	Fifty rupees.
X.	
49.—PETITION FOR LEAVE TO FILE A SPECIFICATION OF AN INVENTION or for the extension of the term of the exclusive privilege of making or using or selling such invention in India (under Act XV of 1859)	One hundred rupees.
XI.	
50.—ADMISSION AS AN ATTORNEY IN ANY HIGH COURT	Two hundred and fifty rupees.
XII.	
51.—ARTICLES OF CLERKSHIP OR CONTRACT whereby any person becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court ...	Five hundred rupees.
52.—ENROLMENT AS AN ADVOCATE OF ANY HIGH COURT	

NOTE.—(*f*.) A first class certificate authorizes—

(1). *A Pleader or Mukhtár* to practise in the High Court and all Courts subordinate thereto.

(2). *A Revenue-Agent* to practise in the Board of Revenue or any office subordinate thereto.

SCHEDULE III.

EXEMPTIONS FROM STAMP-DUTY.

1. Affidavit when made—
   (*a*). for the sole purpose of enabling any person to receive any pension or charitable allowance; or
   (*b*). for the immediate purpose of being filed or used in any Court or before the officer of any Court; or
   (*c*). as a condition of enlistment under the Indian Articles of War.

2. Agreement or memorandum of agreement—
   (*a*). for or relating to the sale of goods or merchandize exclusively;
   (*b*). made by ryots for the cultivation of the poppy for Government.

3. Any instrument whether executed by or in favour of Government in cases where the Government would but for this exemption be liable to pay for the stamp thereon.

4. Appraisement or valuation made for, and for the information of one party only, and not being in any manner obligatory as between parties either by agreement or operation of law.

5. Assignment of copyright by entry made under Act No. XX of 1847, section 5.

6. Awards and agreements made under the Land Acquisition Act, 1870.

7. Bond when executed by—
   (*a*). the sureties of middlemen (lambardárs or khattadárs), taking advances for the cultivation of the poppy for Government;
   (*b*). headmen nominated under rules framed in accordance with the Bengal Act III of 1876, section 99, for the due performance of their duties under that Act;
   (*c*). any person for the purpose of guaranteeing that the local income derived from private subscriptions of a charitable dispensary or hospital shall not be less than a specified sum per mensem.

8. Contracts for service in British Burma under the Chief Commissioner of that province entered into between Natives of India emigrating to British Burma and the Superintendent of State Emigration or other Government officer acting as representative of the said Chief Commissioner.

9. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

10. Counterpart of any instrument exempted from stamp-duty by this Schedule.

11. Instrument of Apprenticeship relating to any poor child apprenticed by or at the sole charge of any public charity.

12. Instruments executed by salaried officers of Government to secure the due performance of their duties.

13. Leases—
   (*a*). When granted to or by a person cultivating any land with his own hands, unless a fine or premium be paid in consideration of such lease.
   (*b*). Of fisheries granted under the Burma Fisheries Act, VII of 1875.

14. Letter of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy of insurance, nothing shall be recoverable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

15. Letters of hypothecation accompanying a bill of exchange.

16. Receipts—
   (*a*). given for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army when serving in such capacity:
   (*b*). given for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity:
   (*c*). given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said armies, and serving in such capacity:

SCHEDULE III—*concluded.*

EXEMPTION FROM STAMP-DUTY—*concluded.*

   (*d*). given for money or securities for money deposited in any bank or in the hands of any banker or person acting as a banker to be accounted for:

Provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for:

Provided further, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

17. Receipt or discharge—
   (*a*). granted to a cultivator for the rent of land paying revenue to Government, or (in the Presidencies of Madras and Bombay) of inám lands: or
   (*b*). endorsed on or contained in any instrument duly stamped according to the law in force in British India at the date of its execution, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity or other periodical payment thereby secured.

18. Surrender of lease executed by a person cultivating the land with his own hand to his landlord.

19. Tenders to the Government of India on account of any loan.

20. Transfers by endorsement—
   (*a*). of a negotiable instrument or policy of insurance:
   (*b*). of securities of the Government of India.

SCHEDULE IV.

AD VALOREM COURT-FEES.

NUMBER.		PROPER FEE.
1. Plaint or memorandum of appeal (not otherwise provided for in this Act), presented to any civil or revenue Court, except High Courts established by letters patent and Courts of Small Causes.	When the amount or value of the subject-matter in dispute does not exceed five rupees	Six annas.
	When such amount or value exceeds five rupees—For every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees	Six annas.
	When such amount or value exceeds one hundred rupees—For every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees	Twelve annas.
	When such amount or value exceeds one thousand rupees—For every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees	Five rupees.
	When such amount or value exceeds five thousand rupees—For every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees	Ten rupees.
	When such amount or value exceeds ten thousand rupees—For every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees ...	Fifteen rupees.
	When such amount or value exceeds twenty thousand rupees—For every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees	Twenty rupees.
	When such amount or value exceeds thirty thousand rupees—For every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees	Twenty rupees.
	When such amount or value exceeds fifty thousand rupees—For every five thousand rupees, or part thereof, in excess of fifty thousand rupees	Twenty-five rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be three thousand rupees.	
2. Plaint presented to any Court of Small Causes.	When the amount or value of the subject-matter in dispute does not exceed five rupees	Eight annas.
	When such amount or value exceeds five rupees—For every five rupees or part thereof in excess of five rupees up to one hundred rupees	Eight annas.
	When such amount or value exceeds one hundred rupees—For every ten rupees or part thereof in excess of one hundred rupees up to one thousand rupees	One rupee.

SCHEDULE IV—*continued.*

AD VALOREM COURT-FEES—*continued.*

NUMBER.		PROPER FEE.
3. Plaint in a suit for possession under the Specific Relief Act, 1877, section 42.	... ...	A fee of one-half the amount prescribed in the foregoing scale.
4. Application for review of judgment or a new trial, if presented on or after the ninetieth day from the date of the decree.	... ...	The fee leviable on the plaint or memorandum of appeal in the suit in which the application is presented.
5. Application for review of judgment or a new trial, if presented before the ninetieth day from the date of the decree.	... ...	One-half of the fee leviable on the plaint or memorandum of appeal in the suit in which the application is presented.
6. Applications under sections 523 or 525 of the Code of Civil Procedure.	(*a*).—When the amount or value of the subject-matter in dispute does not exceed Rs. 500.	One-half of the fee payable on a plaint in a suit.
7. Agreement under section 527 of the Code of Civil Procedure.	(*b*).—In any other case	Twenty rupees.
8. An authenticated copy or translation of a judgment or order not being, or having the force of, a decree.	When such judgment or order is passed by any civil Court other than a High Court, or by the presiding officer of any revenue Court or office, or by any other judicial or executive authority—	
	(*a*).—If the amount or value of the subject-matter is fifty or less than fifty rupees	Four annas.
	(*b*).—If such amount or value exceeds fifty rupees	Eight annas.
	When such judgment or order is passed by a High Court	One rupee.
9. An authenticated copy of a decree or order having the force of a decree.	When such decree or order is made by any civil Court other than a High Court, or by any revenue Court—	
	(*a*).—If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees	Eight annas.
	(*b*).—If such amount or value exceeds fifty rupees	One rupee.
	When such decree or order is made by a High Court	Four rupees.
10. An authenticated copy of any document liable to stamp-duty under Schedule I, when left by any party to a suit or proceeding in place of the original withdrawn.	(*a*).—When the stamp-duty chargeable on the original does not exceed eight annas ...	The amount of the duty chargeable on the original.
	(*b*).—In any other case	Eight annas.

SCHEDULE IV—*concluded.*

AD VALOREM COURT-FEES—*concluded.*

NUMBER.		PROPER FEE.
11. Certificate of administration granted under Act No. XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), or under Act No. XX of 1864 (*for making better provision for the care of the persons and property of minors in the Presidency of Bombay.*)*	If the amount or value of the property in respect to which such certificate is granted does not exceed five hundred rupees	Five rupees.
	If such amount or value exceeds five hundred rupees but not one thousand rupees ...	Ten rupees.
	And for every one thousand rupees, or part thereof, in excess of one thousand rupees ...	Ten rupees.
12. Certificate granted under Bombay Regulation VIII of 1827 (*to provide for the formal recognition of Heirs, Executors and Administrators, and for the appointment of Administrators and Managers of Property by the Courts.*)*		
13. Certificate granted under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.*)*	If the amount or value of the property in respect of which the probate or letters or certificate shall be granted exceeds one thousand rupees	Two and a half per centum on such amount or value.
14. Probate of a will or letters of administration with or without will annexed.	*Explanation.*—Property which a trustee has power to appoint as he thinks fit is property within the meaning of Nos. 12, 13 and 14.	

* NOTE.—The person to whom any such certificate is granted, or his representative, shall after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realised by him under such certificate.

If the monies so recovered or realised exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same and order such person to take out a fresh certificate and pay the fee prescribed by this Schedule for such excess.

In default of filing such statement within the time allowed, the Court may cancel the certificate.

A certificate which has become liable to cancellation under any of the provisions of this Note, shall remain in force until it is actually cancelled.

SCHEDULE V.

FIXED FEES.

DESCRIPTION OF DOCUMENT.		PROPER FEE.
1. Application in writing, by any person having dealings with the Government, and relating exclusively to such dealings.	When presented to any officer of the Customs or Excise Department, or to any Magistrate.	One anna.
2. Application in writing, by any person holding temporarily settled land under direct engagement with Government, and relating exclusively to such engagement.	When presented to any officer of land-revenue.	
3. Application in writing, and relating to the conservancy or improvement of any place.	When presented to any Municipal Commissioner.	
4. Application in writing for the refund of any money paid by or on behalf of the applicant to Government.	When presented to any officer of the Customs, Excise or Revenue Department, or any Executive Authority.	
5. Application in writing for the renewal or refund of value of spoiled stamps.	When presented to any Collector or other officer authorized to grant such renewal or refund.	
6. Application in writing, in reference to any suit or case of which the subject-matter is less than fifty rupees in amount or value.	When presented to any civil Court subordinate to a district Court (under the Code of Civil Procedure, 1877) or to a Collector or Revenue Officer subordinate to a Collector.	
7. Application in writing for the delivery of a copy or translation of any judgment, decree or order, or a copy of any other document.	When presented to any Court or Executive Authority, and relating to a judgment, decree or order passed by such Court or authority or a record in such Court or the office of such Executive Authority.	
8. Petition of objection under the North-Western Provinces License Act, 1877.	When presented to any Collector—	
	(*a*) by a person charged under Class III ...	One anna.
	(*b*) by a person charged under Class II ...	Four annas.
9. Application in writing under Chapter II, III, IV, X or XVI of the Civil Procedure Code, 1877.	When presented to any Civil Court subordinate to a High Court, and relating to any suit or case of which the subject-matter is not less than fifty rupees in amount or value ...	Four annas.

SCHEDULE V—*continued.*

FIXED FEES—*continued.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
10. Application in writing for the determination by any Court of the amount of compensation to be paid by a landlord to his tenant, or to deposit in any Court revenue or rent*.	.....	
11. Bail-bond or other instrument of obligation guaranteeing the attendance of the person by whom or on whose behalf the bond or instrument is executed when required.	When given by direction of any Court or Executive Authority.	
12. Complaint in writing of any offence other than an offence for which a Police Officer may under the Criminal Procedure Code arrest without warrant.	When presented to any Criminal Court.	
13. Copy—duly authenticated—of any document taken out of a Civil or Criminal Court or Revenue Office or from the Office of any Commissioner or Magistrate and not otherwise provided for by this Act.	For every sheet of paper on which such copy is engrossed.	Eight annas.
14. Plaint or memorandum of appeal in a suit to obtain possession under Act No. XVI of 1838, or the Mamlatdárs' Courts Act, 1876.	.....	
15. Plaint or memorandum of appeal in a suit to obtain a declaratory decree in respect of an under-proprietary tenure in the Province of Oudh.	.....	
16. Undertaking under the Indian Divorce Act, s. 19.	.....	

* *Note.*—Provided that the proper fee to be paid upon the deposit, in any Court in the territories for the time being under the government of the Lieutenant-Governor of Bengal, of rent not exceeding the sum of fifteen rupees, shall be as follows:—

If the amount deposited does not exceed two rupees eight annas ... One anna.

If the amount deposited exceeds two rupees eight annas but does not exceed five rupees ... ... Two annas.

If the amount deposited exceeds five rupees but does not exceed ten rupees ... ... Four annas.

If the amount deposited exceeds ten rupees but does not exceed fifteen rupees ... ... Six annas.

SCHEDULE V—*continued.*

FIXED FEES—*continued.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
17. Application in writing not otherwise provided for by this Act.	(*a*).—When presented to any Court other than a High Court, or to a Collector or any Officer subordinate to a Collector or any Magistrate	Eight annas.
	(*b*).—When presented to any Chief Controlling Revenue or Executive Authority or to a Commissioner	One rupee.
	(*c*).—When presented to any High Court ...	Two rupees.
18. Mukhtárnáma or Wakálatnáma for the conduct of any one case.	(*a*).—When filed in any Court other than a High Court or before any Revenue or Executive Officer other than the Commissioner or Chief Controlling Authority.	Eight annas.
	(*b*).—When filed before a Commissioner ...	One rupee.
	(*c*).—When filed in any High Court or before any Chief Controlling Revenue or Executive Officer	Two rupees.
19. Memorandum of appeal under section 588 of the Civil Procedure Code, 1877, or from any order under any other Act for the time being in force not being a decree or having the force of a decree.	(*a*).—When presented to any Civil Court other than a High Court or any Revenue or Executive Officer other than the Commissioner and Chief Controlling Revenue or Executive Authority ...	Eight annas.
	(*b*).—When presented to any Commissioner ...	One rupee.
	(*c*).—When presented to any High Court or Chief Controlling Revenue or Executive Authority	Two rupees.
20. Summons to compel the attendance of any witness or defendant.*	(*a*).—When issued by a Court subordinate to a District Court or by any Revenue Officer other than a Commissioner or Chief Controlling Revenue Authority or by a Magistrate	Eight annas.
	(*b*).—When issued by a District Court or any Court having ordinary original jurisdiction equal to that of a District Court or a Commissioner	One rupee.
	(*c*).—When issued by a High Court or Chief Controlling Revenue Authority ...	Two rupees.

* *Note.*—The Code of Civil Procedure (section 64) requires the issue of a *separate* summons to each defendant, but in the case of witnesses each summons may include three persons, provided such witnesses all reside in the same town or village or within a distance of three miles from each other.

SCHEDULE V—*concluded.*

FIXED FEES—*concluded.*

DESCRIPTION OF DOCUMENT.		PROPER FEE.
21. Warrant of arrest or attachment of property.	(*a*).—When issued by a Court subordinate to a District Court or by any Revenue Officer other than a Commissioner or Chief Controlling Revenue Authority, or by a Magistrate	One rupee.
	(*b*).—When issued by a District Court or any Court having ordinary original jurisdiction equal to that of a District Court, or a Commissioner	Two rupees.
	(*c*).—When issued by a High Court or Chief Controlling Revenue Authority ...	Four rupees.
22. Application under Act No. X of 1859, section 26, or Bengal Act No. VI of 1862, section 9, or Bengal Act No. VIII of 1869, section 37. 23. Caveat. 24. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866. 25. Plaint or memorandum of appeal in a suit (other than a suit or proceeding under the Indian Divorce Act) for the restitution of conjugal rights.	... ...	Five rupees.
26. Plaint or memorandum of appeal in a suit.	(*a*).—To alter or set aside a summary decision or order of any of the civil Courts not established by Letters Patent or of any revenue Court; (*b*).—To alter or cancel any entry in a register of the names of proprietors of revenue-paying estates: (*c*).—To set aside an award: (*d*).—To set aside an adoption: (*e*).—Where it is not possible to estimate at a money-value the subject-matter in dispute, and which is not otherwise provided for by the Act.	Ten rupees.
27. Every petition under the Indian Divorce Act except petitions under section 44 of the same Act, and every memorandum of appeal under section 45 of the same Act. 28. Plaint or memorandum of appeal under the Pársí Marriage and Divorce Act, 1865.	... ...	Twenty rupees.

SCHEDULE VI.

EXEMPTIONS FROM COURT-FEES.

1. Application in writing—

(*a*). To a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land, or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.

(*b*). Relating to a supply, for irrigation, of water belonging to Government.

(*c*). For leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagment with Government, land of which the revenue is settled but not permanently.

(*d*). For service of notice of relinquishment of land or of enhancement of rent.

(*e*). By a witness for the return of a document filed by him in obedience to a summons.

(*f*). Containing any charge or information respecting any offence, when presented, made or laid to or before a Police-officer, or to or before the Heads of Villages or the Village-police in the territories respectively subject to the Governors in Council of Madras and Bombay.

(*g*). For permission to cut timber in Government forests, or otherwise relating to such forests.

(*h*). For compensation under any law for the time being in force relating to the acquisition of property for public purposes.

(*i*). Relating exclusively to the purchase of salt, the property of Government.

(*j*). For the payment of money admitted to be due by Government to the applicant.

2. Authority in writing to an agent to distrain.

3. Bail-bonds in criminal cases, and recognizances to prosecute or give evidence, or for personal appearance or otherwise.

4. Complaint by a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a Railway Company.

5. Copies—

(*a*). Of any document required for public purposes the fee chargeable on which but for this exemption would be paid by Government.

(*b*). Of final sentences or orders passed by criminal Courts, which parties desirous of appealing from such sentences or orders are required by section 273 of the Code of Criminal Procedure to file with their petition of appeal: provided that the party who is desirous of appealing is in confinement under the operation of the sentence or order at the time that he applies for a copy of the same.

Of the judgment, or reasons for passing or making such sentence or order as above.

(*c*). Of the judgment or order given by a criminal Court under section 464 of the Code of Criminal Procedure, to the accused person or person affected by such judgment or order: provided that such person is in jail, or the Court for some special reason sees fit to give such copy free of cost.

(*d*). Of village-settlement-records furnished to landholders and cultivators during the currency or at the termination of settlement-operations.

SCHEDULE VI—*concluded.*

EXEMPTIONS FROM COURT-FEES—*concluded.*

List of fields extracted from village-settlement-records for the purpose of being filed with petitions of plaint in settlement Courts.

(*e*). Of awards and agreements under any law for the time being in force relating to the acquisition of property for public purposes furnished to persons claiming under such awards or agreements.

Nothing in this number applies to—

(1). Copies of judicial proceedings, or

(2). Copies of village settlement-records other than the list aforesaid filed in any Court or Office.

6. Declarations mentioned in section 118 and section 164 of the Code of Civil Procedure.

7. First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.

8. Petitions—

(*a*). by a prisoner or other person in duress or under restraint of any Court or its officers;

(*b*). of appeal against the chaukídárí assessment under Act No. XX of 1856, or against any municipal tax;

(*c*). presented to the Special Commissioner appointed under Bengal Act No. II of 1869 (*to ascertain, regulate and record certain tenures in Chutiá Nágpur*);

(*d*). under the Christian Marriage Act, sections 45 and 48;

(*e*). of appeal presented to Revenue-officers in accordance with section 55 of the Madras Act No. IV of 1871;

(*f*). or applications, memoranda of appeal and the proceedings under the Oudh Taluqdárs Relief Act, the Broach and Kaira Incumbered Estates Act, and Bombay Act No. VI of 1862.

9. Plaints—

(*a*). presented to a Military Court of Requests, and petition for execution of a decree of such Court;

(*b*). in suits tried by Village Munsifs in the Presidency of Fort St. George;

(*c*). and processes in suits before District Panchayats in the same Presidency;

(*d*). in suits before Collectors under Madras Regulation XII of 1816 and Madras Act No. VIII of 1865.

10. Power-of-attorney to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of Her Majesty's army whilst serving in such capacity..

11. Probate of a will, letters of administration and certificate mentioned in the fourth Schedule No. 12, where the amount or value of the property in respect of which the probate, letters, or certificate shall be granted does not exceed one thousand rupees.

12. Written statements called for by the Court after the first hearing of a suit.

SCHEDULE VII.

ACTS REPEALED.

Number and year.	Subject or short title.	Extent of repeal.
XX of 1847 ...	Copyright	In section five, the words "without being subject to any stamp or duty."
XXXI of 1860 ...	Arms Act	In section eight, the words "and shall be engrossed upon a stamp-paper of the value of ten rupees. The stamp-paper shall be furnished by the person applying for the license."
XX of 1865 ...	Pleaders	Sections ten and twenty-two.
XVIII of 1869 ...	The General Stamp Act ...	The whole.
VII of 1870 ...	The Court Fees Act ...	The whole.
XX of 1870 ...	Amending Act VII of 1870...	The whole
XXIV of 1870 ...	Oudh Talukdárs Relief Act ...	Section twenty-four.
II of 1874 ...	Administrator General's Act...	In section thirty-one, the words "bearing a stamp of ten rupees and."
XIII of 1875 ...	Probates and Letters of Administration	Section six.

STATEMENT OF OBJECTS AND REASONS.

The provisions of the law relating to stamp-duties and Court-fees are now contained in six different Acts, and numerous orders of the Governor General in Council notified from time to time in the Government Gazette during the last seven years. It is desirable for the convenience of the public to bring these provisions within the compass of a single enactment, and it is proposed to take this opportunity to introduce measures for the improved working of the law, which experience has shown to be much needed, and at the same time to provide for the acquisition of a moderate increase of revenue from stamp-duties.

2. Such increase is to be obtained partly by the amendment of those provisions of the law which are specially designed to protect the revenue from loss through evasion of the payment of the proper stamp-duty, and partly by the enhancement of the present rates of duty in certain cases.

3. There is reason to believe that the obligation of stamping documents at the time of their execution is at present largely evaded. Prosecutions for such evasion are rarely resorted to, and the criminal penalties provided by the existing law may be said to be almost inoperative, so that frauds upon the revenue are systematically practised in the belief that the worst result to be apprehended from their detection is the levy of a fine of a certain fixed amount, in addition to the unpaid duty. The most important object to be kept in view consequently in the framing of a new Stamp Bill is to stop, as far as may be practicable, every hole of escape from the liability which the law imposes upon the executant of instruments subject to stamp-duty.

4. The new preventive provisions are contained in sections 30, 31, 33, 35 and 37, and their main object is to secure the proper scrutiny of instruments liable to stamp-duty when produced by their possessors, and the effective working of the criminal penalty-clauses as a deterrent to wilful evasions.

5. It has been shown that, in the present state of the law, the obligation to see that all documents produced in Courts and public offices are properly stamped is generally ignored unless and until the parties producing them desire to put the documents in evidence. It is not an uncommon thing for persons to produce documents improperly stamped, and on being told that they will have to pay a specified amount by way of penalty, to withdraw the documents and forego putting them in evidence; and in such cases they are allowed to escape punishment

for the offence which they have committed in not stamping or sufficiently stamping their instruments, and which is not the less an offence against the law and punishable as such, whether they wish to use the instrument or not.

6. Further, where the presiding Judge or officer does take cognizance of the omission to use a proper stamp, some difficulty is found in securing the due punishment of the offender owing to the obscure and somewhat conflicting provisions of the existing law as to the constitution of an "offence." Whilst, on the one hand, the criminal penalty is declared to be incurred upon the mere fact of under-stamping, on the other the provisions relating to the procedure to be followed on the production of unstamped documents deal prominently with the question of intention on the part of the producer, and the Courts generally ignore the presumption of fraudulent intention in the absence of proof of the existence of such intention. As such proof is not forthcoming, the producer of the instrument almost invariably escapes, mulcted only in the civil penalty which the Court is empowered to levy at its own discretion and without reference to other authority.

7. To meet this state of things, it is provided in section 30 of the Bill that every Court and head of an office shall take notice of and examine all instruments produced before them, that they shall determine whether the instrument is properly stamped, and, if not, shall impound it. Section 31 provides for dealing with an impounded instrument which is required to be put in evidence, so that there may be no obstruction to the administration of justice, whilst section 33, amongst other things, provides that this detention of the document and levy of a validating fine in the form of additional duty shall in no case protect the person responsible for the under-stamping from the criminal penalties to which his offence renders him liable. Section 35 prescribes the course to be followed by the Collector when under-stamped documents or copies thereof come into his hands, and section 36 determines the effect of the realization of the deficient duty as regards the validity of the instrument, and provides for the ultimate disposal of the latter—according as a criminal prosecution may or may not be undertaken.

8. Section 37 contains an entirely new provision and one that seems likely to stimulate the production of instruments liable to stamp-duty and not properly stamped.

It frequently happens that the person interested in putting in evidence an insufficiently stamped document was not bound by law to bear the expense of the stamp that should have been used at the time of its execution, yet he has to bear the penalty incurred through the laches of the actual defaulter. As a consequence of this state of the law, the person interested in producing the document is often deterred from so doing by the consideration of the penalty. In such cases it cannot be doubted that production will be greatly facilitated by the provisions of this section which enable the producer to throw the cost of producing the unstamped or improperly stamped document upon another person.

9. Important changes are proposed in regard to some of the instruments chargeable with *ad valorem* duties specified in the first Schedule, namely, Bills of Exchange payable otherwise than on demand, Bonds, Conveyances, Policies of Insurance and other instruments such as Promissory Notes, Leases and Mortgage-deeds which are subject to the same duties as Bills of Exchange, Bonds and Conveyances respectively.

10. Under the present law all Bonds and Conveyances in which the amount secured, or consideration stated, ranges between Rs. 50 and Rs. 10,000, and other instruments similarly chargeable, are subject to rates of stamp-duty equivalent to 1 and ½ per cent., respectively, on the maximum amount of each step in the scale of ascents by which the assessment is regulated. So far, with one exception only, to be presently stated, the sliding scale of rates of stamp-duty follow the plan of the English stamp law, but the tax is as much heavier in proportion in this country as the rupee, half rupee, quarter rupee and one anna respectively exceed in value the shilling, its half and quarter, and one penny. The exception adverted to is that, whereas in the English scale of ascents there is no intermediate step between £100 and £200 or £200 and £300, and so on, in the Indian stamp law the ascents between Rs. 1,000 and Rs. 10,000 are by steps of Rs. 500.

11. When the amount involved in the instrument chargeable with stamp-duty exceeds Rs. 10,000, the percentage of charge is, by the present stamp law in this country, diminished as the amount upon which the duty is assessed increases; whereas under the English law the same proportion of charge is maintained throughout, whatever may be the amount of the subject-matter of the instrument liable to stamp-duty.

12. The rates of stamp-duty also charged on Bills of Exchange and Promissory Notes other than those payable on demand are, relatively to the duties chargeable on Bonds and Conveyances under the Indian stamp law, lower than the English rates. For, whilst the stamp law in England imposes on Conveyances, Bonds and Bills of Exchange the duty of 12*d.*, 6*d.* and about 1½*d.* for every £10, here the rates on those three classes of instruments are 16 annas, 8 annas and about 1 anna for every Rs. 100 respectively.

13. The principle of the changes now proposed may be said to be the equalisation of the existing rates of percentage of duty upon the amount taxed and their adjustment to the English standard—the rupee and its halves and quarters being taken as the equivalent of the shilling and its halves and quarters respectively, and the anna as equal to the penny.

14. Some increase also in regard to the duty leviable on documents of certain amounts above Rs. 1,000 but below Rs 10,000 is involved in the proposed conversion of the intermediate steps between those amounts from Rs. 500 to Rs. 1,000, for the purpose of bringing the Indian, into precise conformity with the English, scale of ascents.

15. The minimum rate of stamp-duty now payable in the case of Bonds is to be omitted. It is thought that all instruments of this class—however low may be the amount involved—can without any hardship bear a four annas tax; whilst so comparatively numerous are the Bonds or other instruments of obligation in respect of amounts not exceeding twenty-five rupees that the additional rate of two annas to which it is proposed to subject them is likely to produce a material increase of revenue.

16. It is proposed to include Policies of Insurance on life in the general class of instruments of insurance liable to stamp-duty, and to double the existing rates of charge on these instruments generally; this change is in fact nothing more than a reversion to the rates chargeable on these documents previously to the passing of the Stamp Act of 1869. Then there was no exception in favour of Life Policies; and instruments of insurance generally were charged at the rate of 8 annas per Rs. 1,000 of the amount insured.

17. Instruments guaranteeing the repayment of loans made upon the deposit of valuable securities are by the present law subjected to a small fixed duty of two rupees only, without reference to the amount of the loan or the extent of the accommodation obtained through the transaction. It seems more equitable and consistent with the general principles which govern the determination of stamp-duties that these instruments should be taxed according to the amount involved in the transaction; hence it is proposed to substitute an *ad valorem* for a fixed duty, and, having regard to the short period for which the loan is granted, to assess the new duty at one-half of the rate applicable to Bills of Exchange.

18. The Bill provides also for the revival of the rule, in regard to the duty leviable on certain promissory notes, which was in force previous to the passing of the Stamp Act of 1869, under which a promissory note made payable at some time exceeding one year from the date of the note was liable to the same rate of duty as a Bond. As the obligatory instrument ordinarily executed in this country when loans are taken—the "tamassúk"—is more of the nature of a promissory note than a bond, it seems probable that some unnecessary sacrifice of revenue has resulted from the relinquishment of the former mode of assessment to which it is now proposed to revert in these cases.

19. The limit of amount within which cheques and other orders for the payment of money and receipts are exempted from any stamp-duty is to be reduced from twenty to ten rupees. The payment of one anna stamp-duty can hardly be considered an oppressive tax in such cases, whilst so comparatively numerous are the transactions of this kind involving small amounts, that the abolition of the exemption in respect of sums ranging between twenty and ten rupees is likely to secure a considerable increase of revenue. Further, the Bill aims at the enforcement of the delivery of a receipt for the payment of any amount in excess of ten rupees in satisfaction of a debt. Under the present law a person receiving money in payment of a debt above a certain amount is obliged to grant a receipt to the payer if the latter demands it. This enactment has been found by experience to attain its object but very imperfectly, as the payers are generally too indifferent about the matter to exercise their legal right, and consequently the payee it is believed, in a large number, if not the majority, of cases, escapes his obligation. As the obligation was imposed solely in the interest of the revenue, the principle on which it rests is not overstrained by the provision of the Bill which, upholding the obligation of the payee, dispenses with the antecedent condition for its enforcement.

20. The duty chargeable on instruments evidencing an appraisement or an award is raised by the Bill to about five times its present amount. Before 1869, these documents were not subject to any stamp-duty: the tax then imposed was purely experimental. The increase now proposed still leaves instruments of this description more lightly taxed than they are in England.

21. The Bill substitutes an *ad valorem* rate of duty for the fixed amount now chargeable on Partition-deeds. That amount is Rs. 16 and in some cases proves such a heavy tax that the matter has been made the subject of a reference to Government; an equal charge on all partitions without reference to the value of the property divided must work unsatisfactorily. An *ad valorem* duty is a more equitable form of charge, and the rate has been assimilated to that of bonds, which is one-half of the rate to which ordinary deeds of conveyance are subject.

22. An *ad valorem* charge is also proposed in lieu of a fixed duty for instruments of gift and exchange. All fixed duties are more or less objectionable, as they must either be pitched so low as to bring in no appreciable amount of revenue, or they must press with undue severity in cases in which the property concerned is of inconsiderable value. The difficulty of imposing *ad valorem* duties in these cases arises out of the want of a safe basis for their assessment, there being no consideration expressed in the instruments to be charged. It is proposed to surmount this difficulty by imposing on the parties the obligation of stating truly—under heavy penalties for fraudulent statements—the approximate value of the subject of the deed of gift or exchange.

23. The stamp-duties heretofore chargeable on pleaders' and mukhtars' certificates under the Pleader's Act are included in the Bill as part of the scheme of consolidation. It seems only just and consistent that advocates and attorneys should be similarly taxed in respect of the practice of their profession in the Courts of this country, and it is proposed to subject them to the payment of five hundred rupees, and two hundred and fifty rupees stamp-duty, respectively, on their enrolment as advocates and attorneys of a High Court. The members of the faculty practising in the Courts of England, Ireland and Scotland are somewhat similarly taxed in respect of such practice.

24. The only changes in the rates of Court-fees contemplated by the Bill are (1) in respect of suits instituted in the Courts of Small Causes, (2) the grant of probates of wills and letters of administration, and (3) the fees leviable for the service of processes.

25. The new rates for Small Cause Court suits involve a decrease of 2½ per cent. in the case of suits of this class instituted in the Presidency Towns, and a proportionate increase of the rates heretofore obtaining in such Courts situated outside those towns.

The present rates in the Presidency Towns are 2 annas per rupee or 12½ per cent. Elsewhere they are the same as in other Courts, namely, 7½ per cent. on the average amount involved in the suit. The town rate is clearly too high and some relief is called for. This, it is thought, may be

unobjectionably given by the application of the equalisation principle; and the enhancement of the rate heretofore levied in the Mufassal Small Cause Court is defensible on the ground that, as the judicial agency and general machinery of these Courts is more costly than those of the ordinary Civil Courts, whilst a complete determination of the matter in dispute is obtained in the one class of Courts and not in the other, equitable considerations admit of a higher rate of charge upon the litigants in the former case than in the latter.

26. Up to 1870 no stamp-duty was charged on Letters of Administration to the effects of deceased persons or Probates of Wills. The rate of duty then fixed was tentative and expressly declared to be subject to revision on the occasion of the next amendment of the law on the subject; it is now proposed to increase it from two, to two and a half per centum.

27. The fees now chargeable for the service of processes issuing from the Civil, Revenue and Criminal Courts are fixed by rules framed by the High Courts. It is proposed to substitute for this procedure the fixed rates specified under Nos. 20 and 21 of the fifth schedule of the Bill, and to discontinue the provisions of the existing law for the regulation of the process-serving establishments.

The experience gained through the working of the present system, as to the actual cost of serving processes, renders possible the determination of the amount of the fee required in the case of each kind of process to cover the cost of its service; and it seems desirable not only that the Court-fees of this class should, like all other fees leviable under the Court-fees Act, be fixed by the Act itself, but that the regulation of the establishments to be maintained for the service of processes should be under the exclusive control of the Executive authorities.

28. It is often asserted that the provisions of the stamp law are so complicated as to be ill-understood by the public generally, and on this ground a disposition has been shown sometimes on the part of the administrators of the law to excuse, or take a very lenient view of, non-compliance with its requirements; the Bill has been framed therefore with the special endeavour to render the requirements of the law generally intelligible, by large additions to the interpretation-clauses, improved arrangement of its provisions and a simpler classification of the contents of the schedules.

29. The other alterations of the existing law contained in the Bill relate chiefly to matters of detail or procedure, are of minor importance, and do not appear to call for any special explanation.

SIMLA;
The 25th September 1877.

F. R. COCKERELL.

A. PHILLIPS,
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 10th October 1877, and was referred to a Select Committee :—

No. 17 OF 1877.

A Bill to enable the District Judges of the Presidency of Fort Saint George to suspend and remove certain ministerial officers, and for other purposes.

Preamble.

Whereas it is expedient to empower the District Judges of the Presidency of Fort Saint George to suspend and remove ministerial officers of the Courts of Subordinate Judges and District Munsifs; and whereas it is also expedient to provide for the transfer of ministerial officers from one Court to another; It is hereby enacted as follows :—

Amendment of Act III of 1873, section 23.

1. For section 23 of the Madras Civil Courts Act, 1873, the following shall be substituted (that is to say) :—

Appointment and removal of ministerial officers of subordinate Courts.

"23. The ministerial officers of the Courts of the Subordinate Judges and District Munsifs shall be appointed by such Subordinate Judges and District Munsifs, respectively, subject to the approval or confirmation of the District Judge within whose jurisdiction such Courts are situate, and may be suspended or removed from office either by the said District Judge or (subject to his approval or confirmation) by such Subordinate Judges and District Munsifs respectively."

Addition after section 24 of Act III of 1873.

2. After section 24 of the same Act, the following section shall be inserted :—

Transfer of ministerial officers.

"24 A. The Local Government may, at the instance of the District Judge, transfer from any Court, except the High Court, to any other Court, except the High Court, all or any of the ministerial officers of the Court of such Judge, or of any Subordinate Judge or District Munsif under his control.

"The District Judge may transfer all or any of the ministerial officers of any Court under his control to any other such Court."

STATEMENT OF OBJECTS AND REASONS.

The Madras Government and the Madras High Court desire that the District Judges should have the power of suspending or removing ministerial officers of the Courts of the Subordinate Judges and District Munsifs in addition to the power which they now possess under Act III of 1873, section 23, of approving and confirming those officers. The first section of the Bill is intended to effect this object.

Powers, resembling those conferred by Act VI of 1871, section 37, are also given to transfer ministerial officers from one Court to another.

SIMLA;
The 19th September 1877.

WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

[Third publication.]

The following preliminary 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 10th October 1877 :—

We, the undersigned members of the Select Committee to which the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques was referred, have considered the papers specified in the appendix, and have the honour to present this preliminary report.

2. This Bill, of which a draft, hereinafter called the draft Bill, was prepared by the late Indian Law Commission, is intended to be one of the chapters of the Indian Civil Code, and was introduced and referred to a Select Committee in December 1867. The then mercantile members of Council, while admitting the desirability of codification, objected to the draft Bill on account of its deviations from English law. In order to obviate this objection several alterations have now been made in its substantial provisions. The Bill has also been re-arranged; and some additions have been made in order to supply omissions. These changes, which embody most of the suggestions contained in the papers mentioned in the appendix, will appear in detail from this report.

3. It may, however, be convenient, before proceeding further, to notice briefly the alterations which have been made in order to render the Bill conformable to English law.

4. The draft Bill provided that an indorsee for value after maturity should have only the rights of his indorser. This does not except the case of a bill of exchange drawn or accepted for the purpose of enabling some party thereto to raise money thereon: we have added an exception in section 80 in order to meet this case.

5. The draft Bill discarded days of grace: we have recognised this usage in sections 87 and 88 of the present Bill. The change has involved (in section 22) a slight alteration of the definition of "maturity."

6. The draft Bill also made all instruments which fell due upon a holiday payable on the next succeeding business day instead of, as in English law, on the next preceding business day, except in the case of a public holiday. We have in section 26 adhered to the English law, and have provided that, besides the usual public holidays, such days shall be public holidays within the meaning of the Act as the Local Government may declare.

7. The draft Bill made no provision for the case in which interest at a specified rate is expressly made payable on a note or bill. It merely provided that interest at the current rate should be payable on a bill dishonoured by non-acceptance, but only from the maturity of the instrument. The same rule was adopted in the case of dishonour by non-payment of a note, bill or cheque. We have substituted the English law on this subject by declaring (section 101) that, where interest is expressly provided for in the note or bill, it shall be calculated, as against all parties, at the specified rate from the date of the instrument until tender or realization of the amount due. Where no interest is specified we have declared (section 101), that, except in cases within section 532 of the Civil Procedure Code, interest shall run at six per cent. per annum from the date at which the amount ought to have been paid by the party charged. We have also added an explanation that an indorser can only be charged with such interest from the date of the receipt by him of notice of dishonour.

8. We have restored (section 117) the rule, which the draft Bill omitted, that a notice of dishonour must inform the party to whom it is given that he will be held liable.

9. The draft Bill provided that when a note, bill or cheque had been lost, or would not be produced by the owner, he might nevertheless enforce his claim against the maker or acceptor if he gave security, to the satisfaction of the Court, to indemnify the defendant against the claims of any other person upon the instrument. No provision was made for an action against the indorser. The English law, however, provides (17 & 18 Vict., c. 125, section 87=Act V of 1866, section 14) that, in *any* action upon a negotiable instrument, the loss of it shall not be set up as a defence if an indemnity is given, to the satisfaction of the Court, against the claims of any other person. And the owner of such a document was always entitled in equity to demand payment on giving a sufficient indemnity. We have, therefore, considered that we should correctly embody the English law by providing (section 103) that any person liable to pay and paying the amount due on a note, bill or cheque shall be entitled to be indemnified; and by leaving (section 8) the liability of all parties the same as if the instrument had been forthcoming.

10. The draft Bill extended to instruments payable to order the principle upon which protection is afforded by English law to the party primarily liable upon an instrument payable to bearer. The acceptor, maker or indorser of a negotiable instrument payable to bearer, but not of an instrument payable to order, is, by English law, discharged by payment to any person in possession of the instrument, if the payer has no reason to believe the possessor is not the true holder. We have in section 104, clause (*c*), restricted the protection to such instruments.

11. The Bill as now altered consists of fourteen chapters. In the first chapter we have inserted the usual preliminary matter. We have (section 1) excluded hundis from the operation of the Bill. We have provided (section 2) for the repeal of some enactments which are replaced by the provisions of the Bill.

12. Section 3 contains a definition of the term "banker" drawn from 39 & 40 Vict., c. 80, s. 3, and of "Notary Public." Notaries are seldom found in the Mufassal, and the Bill provides that their functions may be exercised by persons appointed for that purpose by the Governor General in Council.

13. Chapter II deals with notes, bills and cheques, bills in sets and crossed cheques. We have here substituted definitions which appear to be more comprehensive and accurate than those in the draft Bill. For instance, according to the original definitions, a bill of exchange differs from a cheque only in requiring that the money ordered by the instrument to be paid should be held at the disposal of the drawer—a distinction which appears to us inaccurate, as a bill of exchange is in law, equally with a cheque, assumed to be drawn against funds in the hands of the drawee. Again, the definition of a cheque would include such an instrument as a tradesman's bill on which the debtor writes an order to pay for presentation to a cash-keeper—the ordinary mode of paying bills in mercantile houses, at least in Calcutta, and one adopted by many private persons. According to the draft Bill such an instrument would apparently be negotiable—a very serious result indeed. Again, the definition of a cheque does not require that it should be drawn upon a banker or a person acting as such, nor that it should be payable on demand. These are only a few of what seemed to us the more obvious omissions. We have, therefore, framed definitions which we think will include all the essentials of these instruments.

14. Section 8 defines the holder of a promissory note, bill of exchange or cheque as a person entitled in his own name to the possession of it and to receive or recover the amount due thereon from the parties thereto. The holder of an instrument at the time of its loss or destruction also comes within the definition. The corresponding provision of the draft Bill seemed to us vague and unsatisfactory in its definition of "holder," and it was not consistently applied in the substantive provisions of the Bill.

15. In section 15 we have modified the definition of indorsement in the draft Bill by providing that it must be made for the purpose of negotiation. We have also included in the definition a like signature upon a stamped paper intended to be completed as a negotiable instrument.

16. We have added a section (17) providing, in accordance with English law, that, when an instrument may be construed either as a promissory note or bill of exchange, it shall be taken to be that which the holder elects.

17. In section 19 we have supplied an omission in the draft Bill by providing that an instrument in which no time for payment is specified and all cheques are payable on demand.

18. Section 20 provides for the filling up by the holder of blanks in a stamped paper intended to be completed as a negotiable instrument, but not completed when issued. The holder may complete the instrument for any amount covered by the stamp. To this section is added as an illustration section 9 of the draft Bill.

19. To the four presumptions as to negotiable instruments contained in the draft Bill and stated in section 27 of the present Bill, we have added presumptions that an accepted bill was accepted within a reasonable time after date and before maturity; that every bill or note receipted on the back was paid by the acceptor or maker, that is, by the party primarily liable to pay; and that a lost instrument was duly stamped.

20. In addition to the provisions of the draft Bill as to bills in sets, we have (section 29) provided for the right of that holder of one of the parts who first acquires title to his part to possession of the other parts. We have also defined an acceptor in section 7 so as to include an acceptor of a set of bills.

21. In sections 30 to 37 (both inclusive) we have substituted the provisions of the recent English Act (39 & 40 Vict., c. 81) for the sections of the draft Bill relating to crossed cheques.

22. Chapter III deals with the parties to negotiable instruments.

23. Section 38, after providing that all persons capable of contracting may be parties to notes, bills and cheques, adds that a minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

24. Section 39 provides for persons binding themselves through their authorized agents, and adds that a general authority is not sufficient for this purpose, and that an authority to draw a bill does not of itself authorize an indorsement.

25. Sections 41 and 42 provide for the liability of partners on notes, bills and cheques; and section 43 applies the provisions of the Indian Contract Act, sections 42, 43 and 45 and chapter XI, to the rights and liabilities of partners created thereby, as well as to joint rights and liabilities.

26. Section 45 defines the liability of the drawee of a bill or cheque.

27. Section 46 extends to the case of the maker of a note, a definition contained in section 60 of the draft Bill of the liability of the acceptor of a bill of exchange.

28. Section 47 adds to the category of persons who (according to section 61 of the draft Bill) can accept a bill, all or some of several joint drawees.

29. Section 49 provides that every prior party to a negotiable instrument is liable thereon to a holder in due course, that is, to a *bonâ fide* holder for value.

30. Section 50 lays down that the maker of a note or cheque, the drawer of a bill until acceptance, and the acceptor are ordinarily the principal parties to the bill and the other parties their sureties; and section 51 adds that each prior party is a principal as regards the holder, and that the intermediate parties between such prior party and the holder are sureties for him. By section 52 the provisions of the Indian Contract Act, sections 132 to 147 (both inclusive) are rendered applicable to these relations of suretyship.

31. We have added a section (54) estopping the maker of a note, the drawer of a bill or cheque and the acceptor of a bill for the honour of the drawer from denying the original validity of the instrument.

32. Section 55 adopts, with modifications, the provisions of section 117 of the Evidence Act, 1872, and of sections 36 and 62 of the draft Bill, which estop the acceptor from denying the drawer's signature. The estoppel is, we think, properly confined by this section to suits by holders other than the drawer.

33. Section 56 estops the maker of a note and the acceptor of a bill payable to order from denying the payee's capacity to indorse.

34. Section 57 adds to the estoppel against denying false signatures, contained in section 35 of the draft Bill, an estoppel against denying the capacity to contract of any prior party to a negotiable instrument in suit.

35. Section 58 also carries on the same subject by declaring the acceptor of a bill with a forged indorsement not to be thereby relieved from liability if he knew it to be forged at the time of acceptance; and section 59 declares that the acceptor of a bill drawn in a fictitious name is not thereby relieved from liability to pay upon an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

36. These sections supply some omissions in the draft Bill, and, we think, adequately provide for the due currency of negotiable instruments when once put into circulation and for the protection of their holders.

37. The Bill then goes on to deal with the consideration for negotiable instruments and to protect the holder for value of instruments with respect to which there may have been originally no consideration, or a subsequent failure of consideration, wholly or in part.

38. These sections (60 to 63, both inclusive) are substantially taken from the draft Bill. We have added an illustration to section 62.

39. Chapter IV deals with negotiation.

40. To section 64, which is substantially the same as section 18 of the draft Bill, we have added an explanation to the effect that an instrument delivered upon a condition which has not happened is not negotiable except by a holder for value and without notice of such condition.

41. Where the holder of a note or bill payable to or to the order of a specified person delivers it to another person without indorsing it, but with intent to transfer his title thereto, we think that (with reference to the Code of Civil Procedure, sections 36 and 37) the transferee should not be required to sue in the name of his transferor. We have framed section 66 accordingly.

42. In section 67 we have, in substantial accordance with section 40 of the draft Bill, dealt with the case of a *bonâ fide* holder for value of a bill transferred without indorsement. In such a case we have declared the holder entitled to a return of the consideration if the bill is, after the transfer, avoided on account of any matter prior to the transfer, provided such return is claimed within a reasonable time.

43. Section 71 describes the parties who may indorse and negotiate negotiable instruments. The draft Bill does not appear to provide with sufficient clearness for this matter.

44. Section 76 embodies section 23 of the draft Bill: but it completes that section by enacting that an indorsement of a negotiable instrument for part of the amount due thereon transfers a right to retain the instrument and to receive and recover such part in the name of the indorser.

45. Section 77 provides that no agreement which is not expressed on the instrument or which is collateral thereto shall be binding upon holders for value or those deriving title from such holders. This section embodies and supplements the corresponding provisions of the draft Bill: of which section 42 provided that the title of an indorsee should not be affected by transactions independent of the instrument; and section 99 that a holder in due course should not be affected by any agreement between two signers as to the order of their liability unless such agreement appeared on the face of the instrument. The section as now drawn extends the draft sections to holders for value and to holders deriving title from holders for value; and also extends section 99 to all agreements not expressed on the instrument.

46. Chapter V deals with presentment for acceptance and presentment for payment.

47. Section 82 states the essentials of presentment for acceptance in the case of bills payable at or after sight, to which the draft Bill, section 56, clause (1), refers as bills payable after demand. We have added a provision that presentment must be made by a person entitled to demand acceptance; and we have provided for the case in which the drawee cannot after reasonable search be found, and also for the case of a bill directed to the drawee at a particular place.

48. Section 83 provides for presentment for sight of a promissory note payable at a certain period after sight—a matter unnoticed by the draft Bill.

49. Section 84 alters section 56, clause (3), of the draft Bill by restricting the time allowed to the drawee for deliberation to the departure of the next post, if that should happen within the twenty-four hours otherwise allowed. This is the English rule upon the subject.

50. Sections 85 and 86 lay down the general rule for presentment for payment, which is not distinctly laid down in the draft Bill.

51. Section 87, as to presentment for payment of inland instruments payable after date or sight, embodies section 133 of the draft Bill; but we have excluded cheques from this section; as we have provided (section 19), in accordance with English law, that such instruments are only payable on demand.

52. Section 88 provides for presentment for payment of an inland note payable by instalments—a matter omitted from the draft Bill.

53. Section 90 modifies sections 139 and 140 of the draft Bill by requiring, in accordance with English law, that an instrument drawn or accepted payable at a specified place must,

in order to charge the maker or drawer, be presented for payment at that place. The draft Bill allows presentment to be made in such cases at the place of business or residence of the maker or acceptor.

54. Section 91 embodies the general rule as to the place of presentment.

55. Section 92 extends the rule in section 141 of the draft Bill as to personal presentment to the case of presentment for acceptance.

56. Section 93 taken together with section 105 embodies section 101 of the draft Bill, with the modification that the presentment of a cheque must be made before the relation between the drawer and his banker has been altered to the prejudice of the drawer, or the drawer will be discharged from liability. The draft Bill discharges the drawer only to the extent of his actual loss; but, according to the English cases, he is discharged altogether by such delay, the payee of the cheque being considered as having, by such delay, treated the cheque as payment, and as thereby electing to look to the drawee alone (see *Hopkins* v. *Ware*, L. R. 4 Ex. 268).

57. Section 96 is new. It provides that presentment for acceptance or payment may be made by or to a duly authorized agent, or the representative of a deceased party or the assignee of an insolvent party.

58. Section 98 states the cases in which presentment for payment is excused. It embodies sections 89 and 91 of the draft Bill; and adds the case in which the drawer could not suffer damage by want of presentment; in which case presentment is by English law not necessary as against him.

59. Chapter VI treats of payment and interest. Section 100 declares that payment should be made to the holder, for payment to any other party does not of itself discharge the maker or acceptor. The next two sections, 101 and 102, provide for interest upon notes, bills and cheques, and section 103 for indemnity to the payer of an instrument lost or which cannot be produced.

60. Chapter VII deals with discharge from liability on notes, bills and cheques.

61. Section 104 provides for the discharge of a maker, acceptor or indorser, not only when the holder cancels the acceptor's or indorser's name, and when the maker, acceptor or indorser pays the amount due (sections 38, 85, 87, and 88 of the draft Bill), but also where the holder releases or otherwise discharges the maker, acceptor or indorser.

62. Section 107 adopts the provisions of 16 & 17 Vict., c. 59, section 19 by which the drawer of a cheque payable to order and purporting to be indorsed by or on behalf of the payee is discharged by payment in due course.

63. To section 110, which embodies sections 109 and 110 of the draft Bill, we have added an explanation showing what are material alterations in a negotiable instrument.

64. Section 111 is new, and provides that in special cases, such as that of a blank stamped instrument, an uncrossed cheque and an instrument endorsed in blank, a material alteration made by an indorsee discharges his indorser from liability to him in respect of the consideration as well as of the instrument.

65. Section 113 embodies section 115 of the draft Bill and section 11 of 39 & 40 Vict., c. 81, relating to crossed cheques.

66. Chapter VIII treats of notice of dishonour.

67. Section 116 substantially agrees with sections 125, 127 and 131 of the draft Bill; but we have altered the description of the parties to whom notice of dishonour by non-acceptance or non-payment must be given: the description now adopted is that those parties must include all whom the holder seeks to make severally liable on the instrument, and some one of any parties jointly liable; but notice to the maker, drawee or acceptor is unnecessary.

68. Section 117 collects into one section a number of provisions as to the form of notice and the mode of giving it. These provisions are scattered over sections 126, 127, 128 and 130 of the draft Bill. We have already pointed out that this section differs from the draft Bill in requiring notice to the party addressed that he will be held liable.

69. Section 119 adds to section 132 of the draft Bill the provision that a party receiving notice of dishonour through his agent for presentment is entitled to the same period after such receipt for the purpose of giving notice as the holder has for giving notice.

70. Section 121 describes the cases in which no notice of dishonour is necessary. These cases include, besides those of dispensation by the party entitled to notice and of inability to give the notice (which are provided for in sections 66, 67, 68, 92 and 93 of the draft Bill), the case of the drawer countermanding payment; the case where the party charged could not suffer from want of such notice; the case of an acceptor who is also a drawer; the case of a promissory note which is not negotiable, and the case in which the party knowing the facts unconditionally promises to pay the amount due on the instrument.

71. Chapter IX contains the rules for noting and protest.

72. Section 122 substantially corresponds with section 119 of the draft Bill; but it allows the noting to be made either upon the instrument, or upon a paper attached thereto, or partly upon each. And the rules as to noting and protest are confined to bills and notes, whereas the draft Bill extended them to cheques—an extension for which there is apparently no authority.

73. We have inserted in sections 123 and 124 provisions regarding protest for better security.

74. In section 126 we have reproduced the provisions of Act VI of 1840, section 4, and of 2 & 3 Wm. 4, c. 98, as to protest for non-payment after dishonour by non-acceptance.

75. Chapter X contains rules for calculating the reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting. We have added in section 129 a provision that, in the case of notice of dishonour, when the parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

76. Chapter XI deals with acceptance and payment for honour. We provide (section 131) for the case of protest for better security. In accordance with a recent case (*In re Overend, Gurney and Company*, L. R. 6 Eq. 344), we have declared (section 136) that the payer for honour shall have all the rights, in respect of the bill, of the holder at the time of such payment.

77. Chapter XII, which treats of compensation, retains (section 137) the provisions of the draft Bill (section 65) substantially unaltered.

78. Chapter XIII treats of foreign bills and restricts to foreign bills the section (73) of the draft Bill, which deals with the dishonour of a bill naming a drawee in case of need.

79. The provisions of chapter XIV as to international law are substantially those of the draft Bill.

80. In conclusion, we desire to express our obligations to the following honourable and learned Judges, namely, Messrs. Turner, Kennedy, West and Nánábhái Haridás: to the Madras Chamber of Commerce: to Mr. Stewart Gladstone, Mr. R. Stewart, Mr. Dickson (late Secretary and Treasurer to the Bank of Bengal), and Mr. Scrymgeour, the Calcutta Agent of the Oriental Bank Corporation. We recommend that the Bill as now altered be republished in the *Gazette of India* and the local Gazettes, that the opinions of the Local Governments, the High Courts and the mercantile community be invited thereon, and that its further consideration be stayed till the Council re-assembles in Calcutta.

SIMLA;
The 4th October 1877.

WHITLEY STOKES.
E. C. BAYLEY.
F. R. COCKERELL.

APPENDIX.

From Secretary to Government of India, Financial Department, No. 2833, dated 3rd December 1867.

„ Chairman, Chamber of Commerce, Madras, dated 22nd October 1867.

„ Registrar, High Court, North-Western Provinces, No. 2541, dated 22nd November 1867.

Remarks by Secretary and Treasurer, Bank of Bengal.

From Junior Secretary to Government of Bengal, No. 4601, dated 30th December 1867, and enclosures.

„ First Assistant Resident, Haidarábád, No. 47, dated 12th December 1867, and enclosures.

„ Assistant Secretary to Government of Bengal, Legislative Department, No. 3, dated 14th January 1868.

„ Officiating Head Commissioner of Paper Currency, No. 388, dated 9th December 1867, and enclosures.

„ Secretary to Chief Commissioner, British Burma, No. 214—221, dated 21st January 1868, and enclosure.

„ Secretary to Government, North-Western Provinces, No. 284, dated 18th March 1868, and enclosures.

„ Under Secretary to Government, Bombay, No. 767, dated 13th March 1868, and enclosures.

„ Commissioner, Mysore, No. 7036—233, dated 11th March 1868, and enclosures.

„ Chief Secretary to Government, Madras, No. 1059, dated 9th July 1868, and enclosures.

Note by Edward Gay, Esq., dated 16th December 1867.

From Chief Commissioner, Oudh, No. 4396, dated 10th October 1868, and enclosures.

„ Secretary to Government, Panjáb, No. 1518, dated 20th November 1868, and enclosure.

„ Secretary to Government, Panjáb, No. 1582, dated 8th December 1868, and enclosure.

„ Bábu Piyári Chand Mittra, dated 6th January 1869.

„ Acting Under Secretary to Government, Bombay, No. 398, dated 4th February 1869, and enclosures.

„ Agents and Managers of certain Banks in Calcutta.

„ Acting Secretary to Government, Madras, No. 1198, dated 22nd July 1869, and enclosures.

„ Managers and Agents of certain Joint Stock Banks, Bombay, dated 21st October 1869.

No. II.

THE NEGOTIABLE INSTRUMENTS BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

4. Promissory Note.
5. Bill of Exchange.
6. Cheque.
7. Drawer, Drawee, Acceptor, Payee.
8. Holder.
9. Holder in due course.
10. Payment in due course.
11. Inland instrument.
12. Foreign instrument.
13. Negotiable instrument.
14. Negotiation.
15. Indorsement.
16. Indorsement in blank and in full.
    Indorsee.
17. Ambiguous instruments.
18. Amount stated differently in figures and words.
19. Instruments payable on demand.
20. Blank stamped instruments.
21. Subscribing to alternative liability.
22. Maturity.
23. At sight.
    After sight.
24. Date on which bill or note payable so many months after date or sight, or after a certain event, is at maturity.
25. Date on which bill or note payable so many days after date or sight, or after a certain event, is at maturity.
26. When day of maturity is a holiday.
27. Presumptions as to negotiable instruments.

Bills in sets.

28. Set of bills.
29. Holder of first acquired part entitled to all.

Crossed Cheques.

SECTIONS.

30. Cheque crossed generally.
31. Cheque crossed specially.
32. Crossing after issue.
33. Payment of cheque crossed generally.
    Payment of cheque crossed specially.
34. Payment of cheque crossed specially more than once.
35. Payment in due course of crossed cheque.
36. Payment of crossed cheque out of due course.
37. Cheque bearing "not negotiable."

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

38. Capacity to make, &c., promissory notes, &c.
    Minor.
39. Agency.
40. Liability of agent signing.
41. Acceptance by several drawees not partners.
42. When partnership bound by promissory notes, &c.
43. Partnership and joint rights and liabilities.
    Suretyship.
44. Liability of drawer.
45. Liability of drawee.
46. Liability of maker of note and acceptor of bill.
47. Only drawee can be acceptor except in need or for honour.
48. Liability of indorser.
49. Liability of prior parties to holder in due course.
50. Maker, drawer and acceptor principals.
51. Prior party a principal in respect of each subsequent party.
52. Suretyship.
53. Discharge of indorser's liability.
54. Estoppel against denying original validity of instrument.
55. Estoppel against denying drawer's signature.
56. Estoppel against denying capacity of payee to indorse.
57. Estoppel against denying signature or capacity of prior party.
58. Acceptor bound although indorsement forged.
59. Acceptance of bill drawn in fictitious name.
60. Party receiving consideration liable to subsequent parties.
61. Party not liable to one from whom no consideration moved.
62. Partial absence or failure of money-consideration.
63. Partial failure of consideration not consisting of money.

CHAPTER IV.

OF NEGOTIATION.

SECTIONS.

64. Negotiation by delivery.
65. Negotiation by indorsement.
66. Transfer without indorsement.
67. Liability of transferor without indorsement.
68. Conversion of indorsement in blank into indorsement in full.
69. Effect of indorsement.
70. Negotiability may be restricted or excluded.
71. Who may negotiate.
72. Indorser who excludes his own liability or makes it conditional.
73. Holder deriving title from holder in due course.
74. Instrument indorsed in blank.
75. Conversion of indorsement in blank into indorsement in full.
76. Indorsement for part of sum due.
77. Collateral agreements.
78. Legal representative cannot by delivery only negotiate instrument indorsed by deceased.
79. Instrument obtained by unlawful means or for illegal consideration.
80. Instrument acquired after dishonour or when overdue.
    Accommodation note or bill.
81. Instrument negotiable till payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

82. Presentment for acceptance.
83. Presentment of promissory note for sight.
84. Drawee's time for deliberation.
85. Presentment for payment.
86. Hours for presentment.
87. Presentment for payment of inland instrument payable after date or sight.
88. Presentment for payment of inland promissory note payable by instalments.
89. Presentment for payment of instrument payable at specified place and not elsewhere.
90. Instrument payable at specified place.
91. Presentment where no exclusive place specified.
92. Presentment when maker, &c., has no known place of business or residence.
93. Presentment of cheque to charge drawer.
94. Presentment of cheque to charge any other person.
95. Presentment of instrument payable on demand.

SECTIONS.

96. Presentment by or to agent, representative of deceased, or assignee of insolvent.
97. Posting instruments to be presented.
98. When presentment unnecessary.
99. Liability of banker for negligently dealing with bill presented for acceptance.

CHAPTER VI.

OF PAYMENT AND INTEREST.

100. To whom payment should be made.
101. Interest when rate specified.
102. Interest when no rate specified.
103. Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

104. Discharge from liability:
     by cancellation:
     by release:
     by payment.
105. Discharge by allowing drawee more than twenty-four hours to accept.
106. When cheque not duly presented and drawer damaged thereby.
107. Cheque payable to order.
108. Parties not consenting discharged by conditional or limited acceptance.
109. Alteration by stranger in note or bill.
110. Effect of material alteration.
111. Alteration by indorsee.
112. Acceptor or indorser bound notwithstanding previous alteration.
113. Payment of instrument on which alteration is not apparent.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

114. Dishonour by non-acceptance.
115. Dishonour by non-payment.
116. By and to whom notice should be given.
117. Mode in which notice may be given.
118. Party receiving must transmit notice of dishonour.
119. Agent for presentment.
120. When party to whom notice given is dead.
121. When notice of dishonour is unnecessary.

CHAPTER IX.

OF NOTING AND PROTEST.

122. Noting.
123. Protest.
     Protest for better security.

SECTIONS.
124. Contents of protest.
125. Notice of protest.
126. Protest for non-payment after dishonour by non-acceptance.

CHAPTER X.
OF REASONABLE TIME.
127. Reasonable time.
128. Reasonable time for presentment.
129. Reasonable time for giving notice of dishonour.
130. Reasonable time for transmitting such notice.

CHAPTER XI.
OF ACCEPTANCE AND PAYMENT FOR HONOUR.
131. Acceptance for honour.
132. Acceptance not specifying for whose honour it is made.
133. Liability of acceptor for honour.
134. When acceptor for honour may be charged.
135. Payment for honour.
136. Right of payer for honour.

CHAPTER XII.
OF COMPENSATION.
137. Rules as to compensation.

CHAPTER XIII.
OF FOREIGN BILLS.
138. Drawee in case of need.
139. Protest of foreign bills.

CHAPTER XIV.
OF INTERNATIONAL LAW.
140. Law governing liability of maker, acceptor or indorser of foreign instrument.
141. Law of place of payment governs dishonour.
142. Instrument made, &c., out of British India, but in accordance with its law.
143. Presumption as to foreign law.

SCHEDULE.

A Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

Preamble. Whereas it is expedient to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Negotiable Instruments Act, 1877:"

Local extent. It extends to the whole of British India; but nothing in this Act applies to hundis;

Commencement. And it shall come into force on the first day of May, 1878.

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 thereof.

Interpretation-clause. 3. In this Act—

"Banker." "Banker" includes persons or a corporation or company acting as bankers, and

"Notary Public." "Notary Public" includes also any officer appointed by the Governor General in Council to perform the functions of a Notary Public under this Act.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

Promissory Note. 4. A promissory note is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a person ascertainable when such undertaking is made, or to the bearer of the instrument.

Illustrations.

A signs instruments in the following terms:—

(*a*) "I promise to pay B or order Rs. 500."

(*b*) "I promise to account with B or order for Rs. 500 value received by me."

(*c*) "I acknowledge myself to be indebted to B in Rs. 1,000, to be paid on demand, for value received."

(*d*) "Mr. B, I O U Rs. 1,000."

The instruments respectively marked (*a*), (*b*) and (*c*) are promissory notes. The instrument marked (*d*) is not a promissory note.

Bill of exchange. 5. A bill of exchange is an instrument in writing (not being a cheque) containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a person ascertainable when such order is given or to the bearer of the instrument.

Cheque. 6. A cheque is an instrument in writing, containing an unconditional order, signed by the maker, directing a specified banker to pay a certain sum of money only to, or to the order of, a person ascertainable when such order is given, or to the bearer thereof.

"Drawer." "Drawee." 7. The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee."

"Drawee in case of need." When the bill gives the name of any person in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Acceptor." After the drawee of a bill has signed his assent upon the bill, or if there are more parts thereof than one, upon one of such parts, and delivered the same, or

given notice of such signing, to the holder or to some person on his behalf, he is called the "acceptor."

"Acceptor for honour." When acceptance is refused and the bill is protested for non-acceptance, and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Payee." The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Holder." 8. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

"Holder in due course." 9. "Holder in due course" means any person who became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable to, or to the order of, a payee, for valuable consideration before the amount mentioned in it became payable, and without having reason to believe that any defect existed in the title of the person from whom he derived his title.

"Payment in due course." 10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that such person is not entitled to receive payment of the amount therein mentioned.

Inland instrument. 11. A promissory note, bill of exchange or cheque drawn or made in British India, and made payable in, or drawn upon any person resident in, British India shall be deemed to be an inland instrument.

Foreign instrument. 12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

"Negotiable instrument." 13. A "negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to, or to the order of, a specified person, or to " or order," or to the bearer thereof.

Negotiation. 14. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

Indorsement. 15. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

Indorsement "in blank" and "in full." 16. If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the whole or any part of the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full;" and the person so specified is called the "indorsee" of the instrument.

"Indorsee."

Ambiguous instruments. 17. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

Where amount is stated differently in figures and words. 18. If the amount promised or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount promised or ordered to be paid.

Instruments payable on demand. 19. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque are payable on demand.

Blank stamped instruments. 20. Where a stamped paper, which is intended to be completed as a negotiable instrument, is signed and delivered by a competent person as maker, drawer, acceptor or indorser, the holder thereof may complete the same by filling up any blanks therein, and the person so signing shall be liable upon such instrument, in the capacity in which he signed the same, for any amount which may be specified therein not exceeding the amount covered by the stamp thereon.

Illustration.

A stamped paper intended to be completed as a negotiable instrument is made payable to " or order:" the holder of such instrument may fill up the blank with his own name, or that of any other person.

Subscribing to alternative liability. 21. Where a promissory note is signed by two persons, and it appears on the face of it that one of them subscribes only to an alternative liability, such one is not liable on the note as maker, but is liable as guaranteeing its payment by the maker.

"Maturity." 22. The maturity of a promissory note, bill of exchange or cheque is the date at which it is payable.

"At sight." "After sight." 23. In a promissory note or bill of exchange the expression "at sight" means on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and in a bill of exchange, after acceptance or protest for non-acceptance.

Date on which bill or note payable so many months after date or sight, or after a certain event, is at maturity. 24. In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument

is dated or presented for acceptance or sight or the event happens. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations.

(*a*) A negotiable instrument dated 1st February is made payable at one month after date. The instrument is at maturity on the 1st of March.

(*b*) A negotiable instrument dated 29th January 1877 is made payable at one month after date. The instrument is at maturity on the 28th February 1877.

(*c*) A negotiable instrument dated 30th August 1877 is made payable three months after date. The instrument is at maturity on the 30th November 1877.

(*d*) A promissory note or bill of exchange, dated 31st August 1877, is made payable three months after date. The instrument is at maturity on the 30th November 1877.

25. In calculating the date at which a promissory note or bill of exchange, made payable a certain number of days after date or after sight or after a certain event, is at maturity, the day of the date, or of presentment for acceptance or sight, or on which the event happens, shall be excluded.

Date on which bill or note payable so many days after date or sight, or after a certain event, is at maturity.

26. When the day on which a promissory note, bill of exchange or cheque is at maturity is not a business day, the instrument shall be deemed to be due on the next preceding business day; but if the day of maturity is a public holiday, then on the next succeeding business day.

When day of maturity is a holiday.

Explanation.—The expression "public holiday" includes Sundays: New-Year's day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good-Friday; and any other day declared by the Local Government, by notification in the official Gazette, to be a public holiday within the meaning of this Act.

27. Until the contrary is proved, the following presumptions shall be made :—

Presumptions as to negotiable instruments;

(*a*) that every negotiable instrument was made, drawn, accepted, indorsed, negotiated and transferred for valuable consideration :

of valuable consideration;

(*b*) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity :

as to time of acceptance;

(*c*) that every transfer of a negotiable instrument was made before its maturity :

as to time of transfer;

(*d*) that every promissory note or bill of exchange receipted on the back was paid by the maker or acceptor thereof respectively :

as to payment;

(*e*) that the holder of a negotiable instrument is a holder in due course :

that holder is a holder in due course;

(*f*) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon :

as to order of indorsements;

(*g*) that a lost bill of exchange, promissory note or cheque was duly stamped.

as to stamp.

Bills in Sets.

28. Bill of exchange may be drawn in parts, each part being numbered and containing a condition that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Set of bills.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he is liable on each part as if it were a separate bill.

29. That holder of one of the parts, who first acquired title to his part, is entitled to the other parts of the same set.

Holder of first acquired part entitled to all.

Crossed Cheques.

30. Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed generally.

31. Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Cheque crossed specially.

32. Where a cheque is uncrossed, the holder may cross it generally or specially.

Crossing after issue.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent for collection.

33. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed generally.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of cheque crossed specially.

34. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment of cheque crossed specially more than once.

35. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all

Payment in due course of crossed cheque.

respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

36. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same shall be crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Payment of crossed cheque out of due course.

37. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Cheque bearing "not negotiable."

But a banker who has in good faith and without negligence received payment from a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

38. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Capacity to make, &c., promissory notes, &c.

A minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

Minor.

39. Every person capable of binding himself or of being bound, as in the last preceding section mentioned, may so bind himself or be bound by a duly authorized agent acting in his name.

Agency.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

40. An agent who signs his name to a promissory note, bill of exchange or cheque, without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who know that he signed as agent, or that he had no such intention.

Liability of agent signing.

41. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none or them can accept it for another without his authority.

Acceptance by several drawees not partners.

42. When it is within the scope of the business of a partnership to make, draw, accept, indorse or negotiate promissory notes, bills of exchange or cheques, any partner may bind his firm by making, drawing, accepting, indorsing or negotiating such instruments in the name of his firm, but not otherwise.

When partnership bound by promissory notes, &c.

Exception.—A partner may bind his firm by accepting in his own name, for partnership purposes, a bill drawn upon the firm.

43. In the absence of a contract to the contrary, the provisions of the Indian Contract Act, 1872, sections 42, 43 and 45, and those of chapter XI of the same Act shall respectively apply to all joint rights and liabilities created by promissory notes, bills of exchange and cheques, and to the rights and liabilities thereon of partners.

Partnership and joint rights and liabilities.

44. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder for any loss or damage caused thereby, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

Liability of drawer.

45. The drawee of a bill of exchange or cheque, having sufficient funds of the drawer in his hands properly applicable to the payment of such bill or cheque, must accept the bill or pay the cheque when duly required so to do, and, in default of such acceptance or payment, must compensate the drawer for any loss or damage caused by such default.

Liability of drawee.

46. Except as provided in sections 38, 61, 62, 63, 79, 85, 89, 90, 104 and 109, and in the absence of a contract to the contrary,—

Liability of maker of note and acceptor of bill.

(*a*) the maker of a promissory note and the acceptor before maturity of a bill of exchange, are bound to pay the amount thereof according to the apparent tenor of the note or acceptance respectively, and

(*b*) the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party thereto for any loss or damage sustained by him, and caused by such default.

47. No person except the drawee of a bill of exchange, or all or some of several joint drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Only drawee can be acceptor except in need or for honour.

48. Except as provided in sections 38, 61, 62, 63, 75, 76, 79, 82, 83, 85, 89, 93, 104, 105, 106, 108, 109, 110 and 121, clause (*a*), and in the absence of a contract to the contrary, every person who indorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or

Liability of indorser.

damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Every indorser after dishonour is liable as upon an instrument payable on demand.

49. Every prior party to a negotiable instrument is liable thereon to a holder in due course.

Liability of prior parties to holder in due course.

50. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, as between themselves and any other parties thereto, in the absence of any contract to the contrary between themselves and such parties, liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for them.

Maker, drawer and acceptor principals.

51. Every prior party to a negotiable instrument is, as between himself and the holder thereof, in the absence of any contract to the contrary between himself and the holder, liable thereon as a principal debtor, and the parties thereto, subsequent to him and prior to such holder, are liable to the holder as sureties for such prior party.

Prior party a principal in respect of each subsequent party.

Illustration.

A draws a bill on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

52. The provisions of sections 132 to 147, both inclusive, of the Indian Contract Act, 1872, shall apply to the relations of suretyship between parties to negotiable instruments.

Suretyship.

53. The indorser of a negotiable instrument is not discharged from his liability thereupon by the holder having merely forborne to sue a prior party; but where the holder, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Discharge of indorser's liability.

Illustration.

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:—

First indorsement, "John De Souza."
Second indorsement, "Peter Williams."
Third indorsement, "Wright and Co."
Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out the indorsements by Peter Williams and Wright and Co. A is not entitled to recover anything from John Rozario.

54. No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon, be permitted to deny the validity of the instrument as originally made or drawn.

Estoppel against denying original validity of instrument.

55. No acceptor of a bill of exchange shall, in a suit thereon by a holder other than the drawer, be permitted to deny that the bill was drawn by the person by whom it purports to have been drawn.

Estoppel against denying drawer's signature.

56. No maker of a promissory note and no acceptor of a bill of exchange payable to, or to the order of, a specified person shall, in a suit thereon, be permitted to deny the capacity of the payee thereof to indorse the same.

Estoppel against denying capacity of payee to indorse.

57. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

Estoppel against denying signature or capacity of prior party.

58. An acceptor of a bill of exchange is not relieved from liability, by reason that an indorsement thereon is forged, if he knew or had reason to believe such indorsement to be forged when he accepted the bill.

Acceptor bound although indorsement forged.

59. An acceptor of a bill of exchange drawn in a fictitious name is not, by reason that such name is fictitious, relieved from liability to any holder claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

Acceptance of bill drawn in fictitious name.

60. If at any time there has been valuable consideration between any parties to a negotiable instrument for the making, drawing, acceptance, indorsement, negotiation or transfer thereof, the party receiving such consideration is, except as provided in sections 38, 62, 63, 75, 82, 83, 85, 89, 90, 93, 104, 105, 106, 107, 108, 109, 110 and 111, and in the absence of any contract to the contrary, liable upon the instrument to all subsequent parties thereto, and every subsequent holder is a holder for consideration.

Party receiving consideration liable to subsequent parties.

Illustrations.

(*a*) A indorses a bill of exchange to B, at the request of C, for C's account with B. B is a holder of the bill for consideration, and if he indorses it as a present to D, D is a holder for consideration.

(*b*) A, the holder of a negotiable instrument, indorses it in full to B, in the belief that B has done something which he has not done. B, for consideration, indorses the instrument in blank to C, and C indorses it to D. D is a holder of the instrument for consideration.

(*c*) A, the holder of a negotiable instrument indorses it in full to B, in the belief that B has done something which he has not done. B, for consideration proceeding from C, indorses the instrument in blank to C, and C indorses it to D, D strikes out C's indorsement. D is a holder of the instrument for consideration.

61. When there was no consideration for the making, drawing, acceptance or indorsement of a negotiable instrument, or when the consideration has wholly failed, the maker, drawer, acceptor or indorser is not liable thereon to the party in whose favour the instrument was so made, drawn, accepted or indorsed, or to any party claiming through such party, unless valuable consideration moved from the claimant or from some party through whom he derives title. But the maker, drawer, acceptor or indorser is liable to compensate any subsequent party who, being liable on such instrument, pays the amount due thereon.

Party not liable to one from whom no consideration moved.

62. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Partial absence or failure of money-consideration.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque, stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration.

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

63. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is readily ascertainable in money, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him, is proportionally reduced.

Partial failure of consideration not consisting of money.

CHAPTER IV.

OF NEGOTIATION.

64. Subject to the provisions of section 79, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Negotiation by delivery.

Exception.—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice) unless such event happens.

Illustrations.

(*a.*) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(*b.*) A, the holder of a negotiable instrument payable to bearer which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

65. Subject to the provisions of section 79, a promissory note, bill of exchange or cheque payable to, or to the order of, a specified person is negotiable by the holder by indorsement and delivery thereof.

Negotiation by indorsement.

66. If the holder of such an instrument as in the last preceding section mentioned, delivers it to another person without indorsing it, but with intent to transfer his title thereto, the transferee acquires by such delivery all the rights which the transferor had as holder except the right of negotiation, and he may sue upon the instrument in his own name.

Transfer without indorsement.

67. If such transfer, as in the last preceding section mentioned, is made for valuable consideration to a person having no reason to believe in the existence of any matter affecting the validity of the instrument or of the transfer thereof, and the instrument is thereafter avoided as against any party on account of matters prior to such transfer, the transferor is bound to return to the transferee the consideration received, provided that such return is claimed within a reasonable time.

Liability of transferor without indorsement.

68. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

Conversion of indorsement in blank into indorsement in full.

69. The indorsement of a negotiable instrument transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, be restrained to a transfer of the property without such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

Effect of indorsement.

70. The indorser of a negotiable instrument may, by express words in the indorsement, restrict or exclude the right of the indorsee to negotiate the instrument, although the instrument was, at the time of such words being written, payable to the bearer thereof.

Negotiability may be restricted or excluded.

Illustrations.

B signs the following indorsements on different negotiable instruments:—

(*a*) "Pay the contents to C only."

(*b*) "Pay C for my use."

(*c*) "Pay C or order for the account of B."

(*d*) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

(*e*) "Pay C."

(*f*) "Pay C value in account with the Oriental Bank."

(*g*) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not exclude the right of further negotiation by C.

71. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded, as in the last preceding section mentioned, indorse and negotiate the same.

Who may negotiate.

Explanation.—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration.

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order," or any equivalent words. B may negotiate the instrument.

72. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon, depend upon the happening of a specified event, although such event may never happen.

Indorser who excludes his own liability or makes it conditional.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations.

(*a*.) The indorser of a negotiable instrument signs his name, adding the words—

"Without recourse to me."

Upon this indorsement he incurs no liability.

(*b*.) A, the payee and holder of a bill of exchange, indorses it to B, and B to C. C then indorses it back to A, each of these indorsements being in due course. A is reinstated in his former rights upon the instrument, but has not acquired any rights against B or C.

(*c*.) A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

73. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Holder deriving title from holder in due course.

74. A negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Instrument indorsed in blank.

75. If a negotiable instrument after having been indorsed in blank is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Conversion of indorsement in blank into indorsement in full.

76. Where a negotiable instrument is indorsed for part of the sum due thereon to the indorser, the indorsement transfers only a right to retain the instrument, and to receive or sue for such part in the name of the indorser.

Indorsement for part of sum due.

77. No agreement between any parties to a negotiable instrument which is not expressed thereon, or which is collateral thereto, is binding upon any other holder thereof for valuable consideration, or upon any holder deriving title from a holder for valuable consideration.

Collateral agreements.

Illustration.

A person who is a creditor of A signs, as acceptor, a bill of exchange in A's favour for 3,000 rupees. A being the holder indorses it for value to B, who is aware that the acceptor was a creditor of A. A's debt to the acceptor cannot be set off against B's claim on the bill.

78. The legal representative of a deceased person cannot negotiate by delivery a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

Legal representative cannot by delivery only negotiate instrument indorsed by deceased.

79. When a negotiable instrument has been lost, or has been obtained from any maker, acceptor or holder thereof by unlawful means, or for an illegal consideration, no possessor or indorsee, who claims through the person who so obtained the instrument, is entitled to receive the amount due thereon from such maker, acceptor or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

Instrument obtained by unlawful means or for illegal consideration.

80. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only the rights thereon of his transferor:

Instrument acquired after dishonour or when overdue.

Provided that any person who, in good faith and for valuable consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Accommodation note or bill.

Illustration.

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

81. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

Instrument negotiable till payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

82. A bill of exchange payable at or after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment for acceptance.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he has absconded, the bill is dishonoured.

83. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight, by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment

Presentment of promissory note for sight.

no party thereto is liable thereon to the person making such default.

84. The drawee of a bill of exchange presented to him for acceptance may retain the same until the end of twenty-four hours, or until the next post to the holder, whichever first happens, to consider whether he will accept it.

Drawee's time for deliberation.

Explanation.—In calculating the twenty-four hours mentioned in this section, days which are not business days shall be excluded.

85. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Presentment for payment.

Exception.—No presentment is necessary of a promissory note payable on demand in order to charge the maker thereof.

86. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Hours for presentment.

87. An inland promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment within three days after the end of such period.

Presentment for payment of inland instrument payable after date or sight.

88. An inland promissory note payable by instalments must be presented for payment within three days after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Presentment for payment of inland promissory note payable by instalments.

89. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party, thereto, be presented for payment at that place.

Presentment for payment of instrument payable at specified place and not elsewhere.

90. A promissory note or bill of exchange made drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Instrument payable at specified place.

91. A promissory note or bill of exchange, not made payable as in the last two preceding sections mentioned, must be presented for payment at one of the places specified (if any), or at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be.

Presentment where no exclusive place specified.

92. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment when maker, &c., has no known place of business or residence.

93. A cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn within a reasonable time after it was first received from the drawer, or before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Presentment of cheque to charge drawer.

94. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after receipt thereof from such person.

Presentment of cheque to charge any other person.

95. A negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Presentment of instrument payable on demand.

96. Presentment for acceptance or payment may be made by or to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or where he has died, to his legal representative, or where he has been declared an insolvent, to his assignee.

Presentment by or to agent, representative of deceased, or assignee of insolvent.

97. When the holder of a promissory note, bill of exchange or cheque, and the maker, acceptor or drawee reside in differenr places, the instrument may be forwarded by post for the purpose of being presented for payment. In such case, when there is a daily post, the instrument must be posted at some time not later than the last post on the day following that on which the holder has received such instrument; and the person receiving such instrument by the post must present it not later than the day following its receipt; where there is not a daily post, the instrument must be forwarded and presented within a reasonable time.

Posting instruments to be presented.

98. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases:—

When presentment unnecessary.

(*a*) if the maker, drawee or acceptor closes his place of business,

or cannot after reasonable search be found,

or intentionally prevents the presentment of the instrument,

or access to him cannot be obtained during business hours;

(*b*) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment;

(*c*) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

99. When a bill of exchange, accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently keeps,

Liability of banker for negligently dealing with bill presented for acceptance.

deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

CHAPTER VI.

OF PAYMENT AND INTEREST.

100. Subject to the provisions of section 101, clause (*c*), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

To whom payment should be made.

101. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount and from the date of the instrument, until tender or realization of the amount due thereon.

Interest when rate specified.

102. When no rate of interest is specified in the instrument, interest on the amount thereof shall, except in cases provided for by the Code of Civil Procedure, section 532, be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon.

Interest when no rate specified.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

103. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

Delivery of instrument on payment, or indemnity in case of loss.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

104. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

Discharge from liability;

(*a*) to a holder thereof cancelling such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;

by cancellation;

(*b*) to a holder thereof otherwise discharging such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;

by release;

(*c*) to all parties thereto, if the instrument is payable to bearer, and such maker, acceptor or indorser pays in due course the amount due thereon.

by payment.

105. If the holder of a bill of exchange allows the drawee more than twenty-four hours to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

Discharge by allowing drawee more than twenty-four hours to accept.

106. When a cheque has not been duly presented for payment, and the drawer thereof has thereby sustained loss or damage, he is discharged from liability to the holder making default in presentment.

When cheque not duly presented and drawer damaged thereby.

107. Where a cheque, payable to order, purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Cheque payable to order.

108. If the holder of a bill of exchange acquiesces in a conditional acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which is not signed by all the drawees (not being partners), all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him.

Parties not consenting discharged by conditional or limited acceptance.

109. Alterations made in a promissory note or bill of exchange by a person not a party to such note or bill have no effect upon the liability of a party who signed the instrument as maker or acceptor before such alterations were made.

Alterations by stranger in note or bill.

110. Save as provided in sections 20, 32, 68 and 108, any material alteration of a negotiable instrument renders the same void as against any party thereto at the time, and not consenting to such alteration, unless such alteration was made in order to carry out the common intention of the original parties.

Effect of material alteration.

Explanation.—The following are material alterations within the meaning of this section, namely: an alteration of date, amount, or of time or place of payment; the insertion in the body of the instrument of words authorising the transfer thereof, or stating the value thereof to have been received on a particular account; the addition of a name as that of a maker or drawer; obliteration of, addition to, or alteration of, the crossing of a cheque.

111. Save as last aforesaid, any such alteration as in the last preceding section mentioned, if made by an indorsee, discharges his indorser from all liability to him in respect of the instrument or the consideration thereof.

Alteration by indorsee.

112. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Acceptor or indorser bound notwithstanding previous alteration.

113. Where a promissory note, bill of exchange or cheque has been materially altered, but does not appear to have been so altered, or where a cheque has been crossed but does not appear to have been crossed, payment thereof by a person or banker liable to pay and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker so paying from all liability thereon, and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

Payment of instrument on which alteration is not apparent.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

114. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill.

Dishonour by non-acceptance.

115. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill, or drawee of the cheque makes default in payment upon being duly required to pay the same.

Dishonour by non-payment.

116. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

By and to whom notice should be given.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note, or the drawee or acceptor of the dishonoured bill of exchange or cheque.

117. Notice of dishonour may be given by or to a duly authorised agent of the person by or to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business, or (in case such party has no place of business) at the residence, of the party for whom it is intended.

Mode in which notice may be given.

If the notice is sent by post and miscarries, such miscarriage does not render the notice invalid.

118. Any party receiving notice of dishonour must, in order to charge any prior party, transmit it to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 116.

Party receiving must transmit notice of dishonour.

119. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

Agent for presentment.

120. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

When party to whom notice given is dead.

121. No notice of dishonour is necessary—

When notice of dishonour is unnecessary.

(*a*) when it is dispensed with by the party entitled thereto;

(*b*) in order to charge the drawer, when he has countermanded payment;

(*c*) when the party charged could not suffer damage from want of notice;

(*d*) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;

(*e*) to charge the drawers, when the acceptor is also a drawer;

(*f*) in the case of a promissory note which is not negotiable;

(*g*) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

CHAPTER IX.

OF NOTING AND PROTEST.

122. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument or upon a paper attached thereto, or partly upon each.

Noting.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if not expressly dishonoured, the reason why the holder treats the instrument as dishonoured, and the notary's charges.

123. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such fact to be noted and certified by a notary public. Such certificate is called a protest and shall, in the absence of proof to the contrary, in a suit upon the instrument, be deemed evidence of the fact of dishonour.

Protest.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

Protest for better security.

124. A protest under section 123 must contain—

Contents of protest.

(*a*) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;

(*b*) the name of the person for whom and against whom the instrument has been protested;

(*c*) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;

(*d*) when the note or bill has been dishonoured, the place and time of dishonour, and when better security has been refused, the place and time of refusal;

(*e*) the subscription of the notary public making the protest;

(*f*) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

Notice of protest.

125. When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

Protest for non-payment after dishonour by non-acceptance.

126. All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before maturity.

CHAPTER X.

OF REASONABLE TIME.

Reasonable time.

127. In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and in calculating such time, days which are not business days shall be excluded.

Reasonable time for presentment.

128. Presentment is made within a reasonable time, within the meaning of sections 82, 93, 94 and 95, if it is made on the business day next after that on which the holder received the bill, negotiable instrument or cheque referred to, or when there is no more delay than is occasioned by the residence of the parties to the bill, negotiable instrument or cheque in different places.

Illustration.

A draws on B, resident at Calcutta, a bill of exchange in favour of C payable at sight, and sends it to C at Benares. C, the day after he receives it, indorses it to D, and despatches it to D at Calcutta. D, the day after he receives the bill, presents it for payment. The delay which has taken place in presenting the bill is not unreasonable.

Reasonable time for giving notice of dishonour.

129. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

Reasonable time for transmitting such notice.

130. A party receiving notice of dishonour transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

CHAPTER XI.

OF ACCEPTANCE AND PAYMENT FOR HONOUR.

Acceptance for honour.

131. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

Acceptance not specifying for whose honour it is made.

132. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

Liability of acceptor for honour.

133. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not; and such party, and all prior parties, are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

When acceptor for honour may be charged.

134. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment and has been dishonoured by him, and noted or protested for such dishonour.

Payment for honour.

135. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

Right of payer for honour.

136. Any person so paying, as in the last preceding section provided, is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

CHAPTER XII.

OF COMPENSATION.

Rules as to compensation.

137. The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall (except in cases provided for by the Code of Civil Procedure, section 532) be determined by the following rules:—

(*a*) The holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it;

(*b*) When the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;

(*c*) An indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment;

(*d*) When the person charged and the indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;

(*e*) The party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII.

OF FOREIGN BILLS.

Drawee in case of need.

138. Where a drawee in case of need is named in a foreign bill of exchange, the bill is not dishonoured until dishonoured by such drawee.

Protest of foreign bills.

139. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

CHAPTER XIV.

OF INTERNATIONAL LAW.

Law governing liability of maker, acceptor or indorser of foreign instrument.

140. In the absence of a contract to the contrary, the liability of the maker of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument: the liability of the acceptor, by the law of the place where he accepted the instrument: the liability of the indorser, by the law of the place where he indorsed the instrument.

Illustration.

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is endorsed in British India, and is dishonoured. An action on the bill is brought against B in British India. He is liable to pay interest at the rate of 6 per cent. only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

Law of place of payment governs dishonour.

141. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Illustration.

A bill of exchange drawn and indorsed in British India, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Instrument made, &c., out of British India, but in accordance with its law.

142. If a negotiable instrument is made, drawn, accepted, or indorsed out of British India, but in accordance with the law of British India, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or endorsement made thereon in British India.

Presumption as to foreign law.

143. Until the contrary is proved, the law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of British India.

SCHEDULE.

No. and year.	Title.	Extent of repeal.
VI of 1840 ...	An Act for the amendment of the law concerning the negotiation of Bills of Exchange.	The whole.
V of 1866 ...	An Act to amend in certain respects the Commercial Law of British India.	Sections 11, 12 and 13.
I of 1872 ...	Indian Evidence Act.	Section 117 so far as relates to bills of exchange.
XV of 1874 ...	Laws local extent ...	So much of the first Schedule as relates to Act VI of 1840 and to Act V of 1866, ss. 11, 12 and 13.

A. PHILLIPS,

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 17th October 1877, and was referred to a Select Committee :—

No. 18 OF 1877.

A Bill to amend the North-Western Provinces Land-Revenue Act, 1873.

For the purpose of amending the North-Western Provinces Land-Revenue Act, 1873, it is hereby enacted as follows :— Preamble.

Addition to Act XIX of 1873, s. 29.

1. To section 29 of the same Act the following clause shall be added :—

"EXPLANATION.—Charges incurred in the preparation of village-maps shall be deemed to be charges within the meaning of this section."

Amendment of Act XIX of 1873, s. 194.

2. In section 194 of the said Act, for the words "otherwise rendered" the words "declared by the Local Government" shall be substituted.

Amendment of Act XIX of 1873, s. 199.

3. To section 199 of the same Act the following clause shall be added (namely):—

"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."

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill, which has been recommended by the Local Government, is to deprive persons whose estates are under the management of the Court of Wards of power to charge or alienate those estates. The opportunity has been taken to make a slight improvement in the wording of section 194 of the North-Western Provinces Land-Revenue Act, 1873, and to remove a doubt as to the power of applying the patwárí-fund raised under section 29 to defray the cost of preparing those village-maps, on which the correctness of the Patwárí's records mainly depends.

SIMLA; *The 13th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

Second publication.]

The following Report of the 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 17th October 1877 :—

We, the undersigned Members of the Select Committee to which the Bill to amend the law relating to the management and preservation of Government forests, to the transit of forest produce and to the duty leviable on timber was referred, have the honour to report that we have considered the Bill and the papers specified in the margin.

From the Department of Revenue, Agriculture and Commerce, No. 1139, dated 21st October 1876.
" Secretary to Chief Commissioner, Assam, No. 3779, dated 16th November 1876.
" Assistant Secretary to Government of Bengal, No. 3822, dated 1st December 1876, and enclosures.
" the Department of Revenue, Agriculture and Commerce, No. 1341, dated 15th December 1876, and enclosures.
" Officiating Secretary to Chief Commissioner, Central Provinces, No. $\frac{4738}{223}$, dated 16th December 1876, and enclosures.
" the Department of Revenue, Agriculture and Commerce, No. 1392, dated 30th December 1876, and enclosures.
Despatch from the Secretary of State for India, No. 50, dated 14th December 1876.
From Officiating Secretary to Chief Commissioner, Coorg, No. 695—1, dated 15th January 1877, and enclosure.
" Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. $\frac{184}{2}$, dated 19th January 1877, and enclosure.
" Officiating Under Secretary to Government, Panjáb, No. 39 F, dated 31st January 1877, and enclosures.
" Officiating Secretary to Government, Panjáb, No. 54 F, dated 6th February 1877, and enclosures.
" Chief Secretary to Government, Bombay, Revenue Department, No. 967, dated 15th February 1877, and enclosures.
" Secretary to Government, Public Works Department, North-Western Provinces, No. 40 F, dated 19th February 1877, and enclosures.
" Officiating Secretary to Chief Commissioner, Coorg, No. 756—2, dated 17th February 1877, and enclosure.
" Secretary to Chief Commissioner, British Burma, No. 35—31, dated 2nd February 1877, and enclosures.
" Acting Secretary to Government, Fort St. George, No. 2149, dated 23rd December 1876, and enclosures.
" Officiating Secretary to Government, Panjáb, No. 138 F, dated 5th April 1877, and enclosure.
" Officiating Chief Secretary to Government of Madras, No. 892, dated 7th April 1877,
" Officiating Secretary to Government, Panjáb, No. 231 S, dated 18th July 1877, and enclosures.
Despatch from the Secretary of State for India, No. 41, dated 5th July 1877.
From the Department of Revenue, Agriculture and Commerce, No. 1264 F, dated 6th October 1877, and enclosure.
Note by the Hon'ble T. C. Hope, dated 9th October 1877.

2. As Act VII of 1865 has never been extended to Madras or Bombay, and much confusion and uncertainty might be created by its continuing in force in so far as not superseded by the present Bill, we have provided (section 1) for its repeal, as also that of Acts VII of 1869 and XIII of 1873, in any territories to which the present Bill may be extended.

We have also provided that such extension shall be of the whole Bill, and not of parts only since it will always remain optional with Local Governments to exercise or not the powers which any chapter or section confers.

3. We have improved the definitions of "Forest-officer" and "Forest-produce," and have assimilated that of "cattle" to the definition in the Cattle Trespass Act.

4. In order to avoid the delay and expense of an elaborate preliminary demarcation, which was objected to in many quarters, we have provided (section 4) that the notification of the proposal to constitute a Reserved Forest may be in general terms, but have indicated more clearly (section 19) that the final demarcation must be precise.

5. We have made more clear (section 4) the intention that the Forest Settlement Officer should not, except under very exceptional circumstances, be a Forest-officer. But, in deference to representations from British Burma and the North-West Provinces, we have provided an option of entrusting the forest settlement to two or three officers instead of one.

6. In order to meet the case of the wild tribes and illiterate persons who will in many instances be the possessors of rights over forest lands, we have allowed (section 6) claims to be preferred orally to the Forest Settlement Officer and made it obligatory on him to take such statements down in writing.

7. With the same view we have required (section 7) the Forest Settlement Officer to inquire into the existence of rights, by searching the Government records and taking evidence, even though the people themselves, through ignorance or neglect, may not appear to claim them.

8. We have also provided (section 9) for the hearing of claims not preferred within the time prescribed by section 6, whenever claimants can shew sufficient cause for their delay.

9. In section 10 we have made more clear the alternative courses which may be pursued in the case of claims to or over land, and have also provided for compensation being given wholly or partly in land where the parties prefer land to money.

10. From section 12 the provisions contained in section 10 of the Bill as introduced for the rejection of rights which were not habitually exercised by the claimants at the time of the notification under section 4, or which were not required for the beneficial use of the land or premises or of the person claiming the same, have been omitted.

11. Sections 16 and 17 express more clearly than section 15 of the Bill as introduced the intention of the latter as to the authorities by whom and the manner in which appeals are to be heard.

12. We have made a new provision (section 21) for the revision by the Local Government, at any time not exceeding five years from the date of the Notification under section 19, of any settlement effected under section 14 which experience has shewn to be unworkable.

13. We have provided (section 24) that rights appendant to any land or house may be freely alienated therewith.

14. Section 28 has been amended in phraseology, so as to admit of forests, the use of which is essential to village communities, or in which such communities have rights jointly with Government, being assigned to such communities, under suitable precautions against waste or misappropriation.

15. In section 32 of the Bill as introduced it was provided that the provisions of chapter IV, regarding district or (as we prefer to term them) Protected forests, should be without prejudice to all existing rights of individuals or communities. In order, however, that holders of rights may not be put to the inconvenience and expense of proving them in order to establish their immunity from the restrictions of the chapter, we have provided (section 29) that no land shall be constituted a Protected Forest unless the nature and extent of the rights of Government and other persons in it have been enquired into and recorded at a survey or settlement or in some other sufficient manner. At the same time it has been left open to any person to dispute the correctness of such record.

16. In section 30 we have inserted a provision to permit of the closing of portions of a Protected Forest for a limited period, provided the remainder of the forest be sufficient and convenient for the exercise of rights thus temporarily suspended in the portion closed. This provision is in accordance with the rules in the North-West Provinces made under the existing law, and is generally considered necessary for purposes of renovation.

17. In section 32 we have given power to make rules to regulate the exercise of recorded rights, so as to prevent, in the interest of the community, waste and injury to the forest.

18. In order to preclude hardship to the owners of private forests from the operation of chapter V, we have enabled such owners (section 37) to require the Government to acquire the land for public purposes.

19. We have added a section (38) to enable Government, at the request of owners of land, either to administer such land as a Reserved or Protected Forest, or to apply to it all or any of the provisions of the Bill. This improvement has been made at the suggestion of the Panjáb Government, with special reference to sacred and other private forests in that province; but we have reason to believe that the option of obtaining for their forest property the same legal protection, and also (if desired) the same skilled administration, as the Government provides for its own, is likely to be welcomed by the owners of rent-free estates and other private property in many parts of India.

20. We have restricted (section 39) the power of levying a duty on timber produced in British India to timber in respect of which the Government has any rights. The holders of lands under lákhiráj, inámi or other tenures in which forest rights are included will thus not be interfered with. We have likewise validated the levy of such duties now existing, which are numerous in certain parts of India.

21. In section 45 we have empowered the Local Government to exempt any particular class of timber from the operation of the section, partly in order not to interfere with the collection of drift wood for fuel, which is common among the poorer classes in certain localities.

22. We have recast the earlier sections of chapter IX, so as to bring them into closer conformity with similar provisions in other special laws.

23. In section 63 we have inserted a provision that no person shall be arrested for any act which is an offence under chapter IV, excepting for a violation of a prohibition under clause (*c*) of section 30.

24. In section 67 we have restricted the power of Forest-officers, as regards compounding, to the receipt of compensation for damage committed.

25. We have enlarged section 73 by empowering the Local Government to make rules regarding the rewards to be paid to officers and informers out of the proceeds of fines and confiscations, and for the preservation, reproduction and disposal of trees and timber belonging to Government but grown on lands belonging to, or in the occupation of, private persons.

26. We have inserted a new section (77) to enable the Government to enforce service in cases where persons are entitled to a share in the produce of forests on the condition of duly performing service in connection with such forests.

27. We have carefully considered the objections made by the Government of Madras to the original draft of the Bill which was circulated previous to its introduction into the Council. We are of opinion that the improvements which have now been made in both the language and matter of the Bill are so material as substantially to meet these objections, some of which were based on a misapprehension of what was intended. It appears to us that the Bill, especially considering the latitude for meeting local peculiarities which the power of making rules affords, is now not unsuitable to the circumstances of the Madras Presidency, and is such as might be accepted by the Local Government. At the same time, being permissive in its application, it contains nothing to prevent separate local legislation, if that course should be eventually preferred.

28. The publication ordered by the Council has taken place; but we consider republication to be desirable.

29. We recommend that the Bill as now amended be passed.

SIMLA;
The 17th October 1877.

T. C. HOPE.
R. E. EGERTON.
A. J. ARBUTHNOT.
WHITLEY STOKES.
F. R. COCKERELL.

No. II.

THE INDIAN FOREST BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.
PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
Extension.
2. Interpretation-clause.

CHAPTER II.
OF RESERVED FORESTS.
3. Power to reserve forests.
4. Notification by Local Government.
5. Bar of accrual of forest-rights.
6. Proclamation by Forest Settlement Officer.
7. Enquiry by Forest Settlement Officer.
8. Powers of Forest Settlement Officer.
9. Extinction of rights.
10. Power to acquire land over which right is claimed.
11. Order on claims.
12. Record to be made by Forest Settlement Officer.
13. Record where he admits claim.
14. Exercise of rights admitted or modified.
15. Commutation of rights.
16. Appeal from order passed under section 10, 11, 14 or 15.
17. Appeal under section 16.
18. Power to appoint pleader on behalf of Government.
19. Notification declaring forest reserved.
20. Publication of translation of such notification in neighbourhood of forest.

SECTIONS.
21. Power to revise arrangement made by Forest Settlement Officer under section 14.
22. Reserved Forests constituted previous to passing of Act.
23. No right acquired over Reserved Forest except as here provided.
24. Rights not to be alienated without sanction.
25. Power to stop ways and water-courses in such forests.
26. Acts prohibited in such forests.
27. Power to declare forest no longer reserved.

CHAPTER III.
OF VILLAGE-FORESTS.
28. Formation of village-forests.

CHAPTER IV.
OF PROTECTED FORESTS.
29. "Protected Forests" defined.
30. Power to issue notification—
(*a*) reserving trees,
(*b*) closing forest,
(*c*) prohibiting collection of forest-produce,
(*d*) and breaking up or clearing of land.
31. Publication of translation of such notification in neighbourhood.
32. Power to make rules regulating disposal of produce of protected forests.
33. Penalties for acts in contravention of notification under section 30.
34. Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.
OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.
35. Protection of forests for special purposes.
36. Power to assume management of such forests.
37. Expropriation of forests in certain cases.
38. Protection of forests at request of owners.

CHAPTER VI.
OF THE DUTY ON TIMBER.
39. Power to impose duty on timber.
Power to fix value for *ad valorem* duty.
40. Limit not to apply to royalty or purchase-money.

CHAPTER VII.
OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.
41. Power to make rules to regulate transit of forest-produce.
42. Penalty for breach of rules made under section 41.
43. Government and its officers not liable for damage to forest-produce at depôt.
44. All persons bound to aid in case of accident at depôt.

CHAPTER VIII.
OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.
45. Certain kinds of timber to become property of Government until title thereto proved, and may be collected accordingly.
46. Notice to claimants of drift-timber.
47. Procedure on claim preferred to such timber.
On rejection of claim to such timber, claimant may institute suit.
48. Disposal of unclaimed timber.
49. Government and its officers not liable for damage to such timber.
50. Payments to be made by claimant before timber is delivered to him.
51. Power to make rules and prescribe penalties.

CHAPTER IX.
GENERAL.
A.—Of Penalties.
52. Seizure of property liable to confiscation.
Application for confiscation.
53. Procedure thereupon.
54. Forest-produce, tools, &c., when liable to confiscation.
55. Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.
56. Procedure when offender not known, or cannot be found.
57. Procedure as to perishable property seized under section 52.
58. Appeal from such order.
59. Property when to vest in Government.
60. Saving of power to release property seized.
61. Punishment for wrongful seizure.
62. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.
B.—Of Criminal Procedure.
63. Power to arrest without warrant.
64. Power to prevent commission of offence.
65. Power to try offences summarily.
66. Operation of other laws not barred.
67. Power to compound offences.
68. Presumption that timber belongs to Government.
C.—Of Cattle-trespass.
69. Cattle Trespass Act, 1871, to apply.
70. Power to alter fines fixed by that Act.
D.—Miscellaneous.
71. Persons interested in forest bound to assist Forest-officer and Police-officers.
72. Local Government may invest Forest-officers with certain powers.
73. Additional powers to make rules.
74. Power to impose penalties for breach of rules.
75. Rules when to have force of law.
76. Management of forests the joint property of Government and other persons.
77. Enforcement of service for which a share in produce of Government forest is enjoined.
78. Recovery of money due to Government.
79. Lien on forest-produce for such money.
Power to sell such produce.
80. Forest-officers deemed public servants.
81. Indemnity for acts done in good faith.
82. Forest-officers not to trade.
83. Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.
SCHEDULE.

A Bill to amend the law relating to forests, the transit of forest-produce and the duty leviable on timber.

WHEREAS it is expedient to amend the law relating to forests, the transit of forest-produce and the duty leviable on timber; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Indian Forest Act, 1877:"

Short title.

It shall come into force at once;

Commencement.

And the Local Government may from time to time, with the previous sanction of the Governor General in Council, extend, by notification in the official Gazette, this Act to all or any of the territories for the time being under its administration.

Extension.

The Acts mentioned in the Schedule hereunto annexed shall be repealed in the territories comprised in such notification.

Repeal of Acts.

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

Interpretation-clause.

"Forest-officer" means any person whom the Governor General in Council, or the Local Government or any officer empowered in that behalf, may from time to time appoint by name, or as holding an office, to carry out all or any of the purposes of this Act, or anything required by this Act or under any rule made under this Act to be done by a Forest-officer:

"Forest-officer."

"Tree" includes bamboos, stumps and brushwood:

"Tree."

"Timber" includes trees and bamboos when they have fallen or have been felled, and all wood whether cut up, or fashioned or hollowed out for cart-wheels, mortars, canoes or other purposes or not:

"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, peat, reeds, leaves, moss, flowers, fruits, roots, juice, catechu, bark, honey, wax, lac, caoutchouc, gum, wood-oil, grass-oil, resin, varnish, silk-worms and cocoons, skins, tusks, bones and horns:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

"Forest-offence."

"Cattle" means cattle as defined in the Cattle Trespass Act, 1871:

"Cattle."

"River" includes streams, canals, creeks and other channels, natural or artificial.

"River."

CHAPTER II.

OF RESERVED FORESTS.

3. The Local Government may, from time to time, constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a Reserved Forest in the manner hereinafter provided.

Power to reserve forests.

4. Whenever it is proposed to constitute any land a Reserved Forest, the Local Government shall publish a notification in the official Gazette—

Notification by Local Government.

(*a*) declaring that it is proposed to constitute such land a Reserved Forest;

(*b*) specifying the limits of such forest;

(*c*) appointing an officer (hereinafter 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 to or over any land comprised within such limits, or to or over any forest-produce, and to deal with the same as provided in this chapter.

Explanation 1.—For the purpose of clause (*b*) of this section it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

Explanation 2.—The officer appointed under clause (*c*) of this section shall ordinarily not be a Forest-officer.

Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a Forest-officer, to perform the duties of a Forest Settlement Officer under this Act.

5. During the interval between the publication of such notification and the date fixed by the notification under section nineteen, no right shall be acquired to, over, or in respect of the land 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 clearings for cultivation or for any other purpose shall be made in such land.

Bar of accrual of forest-rights.

6. When a notification has been issued under section four, the Forest Settlement Officer shall publish in the language of the country in every town and village in the neighbourhood of the land comprised therein, a proclamation:—

Proclamation by Forest Settlement Officer.

(*a*) specifying the limits of the proposed 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 either to present to such officer within such period a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

7. The Forest Settlement Officer shall—

(*a*) take down in writing all statements made under section six, and shall, at some convenient place, enquire into—

Enquiry by Forest Settlement Officer.

(*b*) all claims duly preferred under section six, and

(*c*) the existence of any rights as aforesaid, so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

8. For the purposes of such enquiry, the Forest Settlement Officer may exercise the following powers, that is to say:—

Powers of Forest Settlement Officer.

(*a*) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same;

(*b*) the powers of a Civil Court in the trial of suits.

9. The following rights shall be extinguished:—

Extinction of rights.

(*a*) rights in respect of which no such claim has been so preferred, if the person claiming them fails, before the notification under section nineteen is published, to satisfy the Forest Settlement Officer that he had sufficient cause for not preferring such claim within such period; and

(*b*) rights of the existence of which no knowledge has been acquired by enquiry under section seven, clause (*c*).

10. In the case of a claim to a right to or over any land, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

Power to acquire land over which right is claimed.

If such claim is admitted in whole or in part, the Forest Settlement Officer shall either (1) exclude such land from the limits of the proposed Forest; or (2) come to an agreement with the owner thereof for the surrender of his rights; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

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 appearing before him in pursuance of a notice given under section nine of that Act;

(*c*) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(*d*) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land or partly in land and partly in money.

11. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

Order on claims.

12. The Forest Settlement Officer, when passing any order under section eleven, shall record, so far as may be practicable,

Record to be made by Forest Settlement Officer.

(*a*) the name, father's name, caste, residence and occupation of the person claiming the right,

(*b*) the designation, 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.

13. If the Forest Settlement Officer admits in whole or in part any claim under section eleven, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, or such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

Record where he admits claim.

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, pass such orders as will ensure the continued exercise of the rights so admitted or modified. For this purpose the Forest Settlement Officer may—

Exercise of rights admitted or modified.

(*a*) 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; or

(*b*) so alter the limits of the proposed Forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient for the purposes of the claimants; or

(*c*) record an order, continuing to such claimants a right to pasture or to forest-produce (as the case may be), to the extent so admitted, at such seasons, within such portions of the proposed Forest and under such rules as may from time to time be prescribed by the Local Government.

15. In case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the Reserved Forest, to make such settlement under section fourteen as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Local Government 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 he thinks fit.

Commutation of rights.

16. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under section ten, eleven, fourteen or fifteen, present an appeal from such order to—

Appeal from order passed under section 10, 11, 14 or 15.

(*a*) such officer of the Revenue Department, of rank not lower than that of a Collector or Deputy

Commissioner, as the Local Government may, from time to time, by notification in the official Gazette, appoint by name, or as holding an office, to hear appeals from such orders, or

(*b*) a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the Local Government to hear appeals from such orders.

17. Every appeal under section sixteen shall be made by petition in writing, and may be delivered to the Forest Settlement Officer, who shall forward it to the authority competent to hear the same.

Appeal under section 16.

If the appeal be to the officer appointed under section sixteen, clause (*a*), it shall be heard in the manner prescribed for the hearing of appeals in matters relating to land-revenue.

If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal and shall give notice thereof to the parties, and shall hear such appeal accordingly.

The order passed thereon by such officer or Court, or by the majority of the members of such Court, shall be final, subject to revision by the Local Government.

18. The Local Government may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the appellate officer or Court in the course of any inquiry or appeal under this Act.

Power to appoint pleader on behalf of Government.

19. When the following events have occurred (namely)—

Notification declaring forest reserved.

(*a*) the period fixed under section six for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement Officer; and

(*b*) such claims have been made, and the period limited by section sixteen 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 appellate officer or Court; and

(*c*) all lands (if any) to be included in the proposed forest, which the Forest Settlement Officer has, under section ten, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act,

the Local Government may publish a notification in the official Gazette specifying definitely, according to boundary marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a Reserved Forest.

20. The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the language of the district to be affixed in some conspicuous place in every town and village in the neighbourhood of the forest.

Publication of translation of such notification in neighbourhood of forest.

21. The Local Government may, within five years from the publication of any notification under section nineteen, revise any arrangement made by the Forest Settlement Officer under section fourteen, and may, for this purpose, rescind or modify any order made under that section, and direct that any one of the proceedings specified in section fourteen be taken in lieu of any other of such proceedings, or that the rights admitted under section eleven be commuted under section fifteen.

Power to revise arrangement made by Forest Settlement Officer under section 14.

22. Every forest constituted a Reserved Forest, whether under the designation of Government Forest or otherwise, previous to the date on which this Act is extended to the territory in which such forest is situated shall be deemed to have been constituted a Reserved Forest under this Act: and the Local Government shall, within twelve months from such date, declare, by notification in the official Gazette, what forests shall be deemed to have been so constituted.

Reserved Forests constituted previous to passing of Act.

Provided that, if any rights to or over any land or forest-produce are claimed in such Reserved Forest, and such claims have not already been enquired into and settled, the Local Government may direct that such claims shall be inquired into and settled in the manner provided by this Act.

23. 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.

No right acquired over Reserved Forest, except as here provided.

24. No right continued under section fourteen, clause (*c*), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government: provided that when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

Rights not to be alienated without sanction.

No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section thirteen.

25. The Forest-officer may, from time to time, with the previous sanction of the Local Government or of any officer duly authorized in that behalf, stop any public or private way or water-course in a Reserved Forest, provided that a reasonably convenient substitute for the way or water-course so stopped already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

Power to stop ways and water-courses in such forests.

26. Any person who—

Acts prohibited in such forests.

(*a*) sets fire to a Reserved Forest, or kindles any fire in such manner as to endanger the same;

or who, in a Reserved Forest,

(*b*) kindles, keeps or carries any fire except at such seasons as the Forest officer may from time to time notify in this behalf;

(*c*) trespasses or grazes cattle or permits cattle to trespass;

(*d*) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(*e*) sells, girdles, lops, taps or burns any tree, or strips off the bark or leaves from, or otherwise damages, the same;

(*f*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes therefrom, any forest-produce;

(*g*) clears or breaks up any land for cultivation or any other purpose;

(*h*) hunts, shoots, fishes, kills or catches elephants, poisons water, or sets traps or snares in contravention of any rules which the Local Government may from time to time prescribe;

(*i*) makes any fresh clearing prohibited by section five;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both, in addition to such compensation for damage 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 continued under section fourteen, clause (*c*), or created by grant or contract in writing made by or on behalf of Government under section twenty-three.

Whenever fire is caused wilfully, or by gross negligence, in a Reserved Forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights to pasture or forest-produce shall be suspended for such period as it thinks fit.

27. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act, shall cease to be a Reserved Forest.

Power to declare forest no longer reserved.

From the date so fixed, such forest or portion shall cease to be reserved, but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

28. The Local Government may, from time to time, assign to any village community the rights of Government to or over any land which is, or which under this Act might be constituted, a Reserved Forest, and may cancel such assignment. All forests so assigned shall be called Village-forests.

Formation of village-forests.

The Local Government may make rules for regulating the management of Village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber, or other forest-produce or pasture, 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 the rules so made) apply to Village-forests.

CHAPTER IV.

OF PROTECTED FORESTS.

29. The Local Government may from time to time, by notification in the official Gazette, declare the provisions of this chapter applicable to any forest-land or waste-land which is not included in a Reserved Forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

"Protected Forest" defined.

The forest-land and waste-lands comprised in any such notification shall be called a "Protected Forest."

No such notification shall be made unless the nature and extent of the rights of Government and of private persons in the forest-land or waste-land comprised therein have been enquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient.

Every such record shall be presumed to be correct until the contrary is proved.

30. The Local Government may from time to time, by notification in the official Gazette,—

Power to issue notification—

(*a*) declare any class of trees in a protected forest, or any trees in any such forest, to be reserved from a date fixed by such notification;

reserving trees,

(*b*) declare from time to time a portion of such forest to be closed, for such term not exceeding ten years as the Local Government thinks fit, and that the rights of private persons over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed;

closing forest,

(*c*) prohibit, from a date fixed as aforesaid,

the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process or removal of any forest-produce, in any such forest, and

prohibiting collection of forest-produce,

the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, any land in any such forest; and

and breaking up or clearing of land.

(*d*) alter or cancel such declaration or prohibition.

31. The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district of every notification issued under section thirty to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Publication of translation of such notification in neighbourhood.

32. The Local Government may, from time to time, make rules to regulate the following matters:—

Power to make rules regulating disposal of produce of protected forests.

(*a*) the cutting, sawing, conversion and removal of trees and timber, and the collection, manu-

facture and removal of forest-produce from protected forests;

(*b*) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take forest-produce for their own use, and the production and return of such licenses by such persons;

(*c*) the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade and the production and return of such licenses by such persons;

(*d*) the payments (if any) to be made by the persons mentioned in clauses (*b*) and (*c*) of this section for permission to cut such trees, or to collect and remove such timber or other forest-produce;

(*e*) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payments shall be made;

(*f*) the examination of forest-produce passing out of such forests;

(*g*) the clearing and breaking up of land for cultivation or other purposes in such forests;

(*h*) the protection from fire of timber lying in such forests and of trees reserved under section thirty;

(*i*) the cutting of grass and pasturing of cattle in such forests;

(*j*) hunting, shooting, killing or catching elephants, fishing, poisoning water, and setting traps or snares in such forests;

(*k*) the protection and management of any portion of a forest closed under section thirty;

(*l*) the exercise of rights recorded under section twenty-nine.

Penalties for acts in contravention of notification under section 30.

33. Any person who commits any of the following offences:—

(*a*) fells, girdles, lops, taps or burns any tree reserved under section thirty, or strips off the bark or leaves from, or otherwise damages, any such tree;

(*b*) contrary to any prohibition under section thirty, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;

(*c*) contrary to any prohibition under section thirty, breaks up or clears for cultivation or any other purpose, any land in any protected forest;

(*d*) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any trees reserved under section thirty, whether standing, fallen or felled, or to any closed portion of such forest;

(*e*) leaves burning any fire kindled by him in the vicinity of any such trees or timber;

(*f*) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;

(*g*) permits cattle to damage any such tree;

(*h*) infringes any rule made under section thirty-two;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Nothing in this chapter to prohibit acts done in certain cases.

34. Nothing in this chapter 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 thirty-two, or (except as regards any portion of a forest closed under section thirty) in the exercise of any right recorded under section twenty-nine.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

Protection of forests for special purposes.

35. The Local Government may from time to time, by notification in the official Gazette, regulate or prohibit in any forest or waste land—

(*a*) the breaking up of land for cultivation;

(*b*) the grazing of cattle;

(*c*) the firing or clearing of the vegetation;

when such regulation or prohibition appears necessary for any of the following purposes:—

First.—For protection against storms, winds, rolling stones, floods, and avalanches;

Second.—For the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones or gravel;

Third.—For the maintenance of a water-supply in springs, rivers and tanks;

Fourth.—For the protection of roads, bridges, railways and other lines of communication;

Fifth.—For the preservation of the public health;

and may alter or cancel such notification.

The Local Government may, for any such purpose, construct at its own expense, in or upon any such forest or waste-land, such work as it thinks fit.

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling on him to shew cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf, and have been considered by the Local Government.

Power to assume management of such forests.

36. In case of neglect of, or wilful disobedience to, any regulation or prohibition under section thirty-five, or if the purposes of any work to be constructed under that section so require, the Local Government may, after notice in writing to the owner of such forest or land, and after considering his objections (if any), place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to Reserved Forests shall apply to such forest or land.

The nett profits (if any) arising from the management of such forest or land shall be paid to the said proprietor

Expropriation of forests in certain cases.

37. In any case under this chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.

The owner of any forest or land comprised in any notification under section thirty-five may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

Protection of forests at request of owners.

38. The owner of any land or, if there be more than one person interested therein, any such persons interested in the aggregate in not less than two-thirds of the area thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector or Deputy Commissioner their desire—

(*a*) that such land be managed on their behalf by the Forest-officer as a Reserved or a Protected Forest on such terms as may be mutually agreed upon; or

(*b*) that all or any of the provisions of this Act be applied to such land.

In either case, the Local Government may, by notification in the official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled.

CHAPTER VI.

OF THE DUTY ON TIMBER.

Power to impose duty on timber.

39. The Local Government, with the previous sanction of the Governor General in Council, may levy a duty in such manner, at such places, and at such rates as it may, from time to time, prescribe by notification in the official Gazette, on all timber

(*a*) which is produced in British India, and in respect of which the Government has any right;

(*b*) which is brought from any place beyond the frontier of British India.

Power to fix value for *ad valorem* duty.

In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, with the like sanction, from time to time fix, by like notification, the value on which such duty shall be assessed.

All such duties, which, at the time when this chapter is extended to any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

Limit not to apply to royalty or purchase-money.

40. Nothing in this chapter shall be deemed to limit the amount chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

Power to make rules to regulate transit of forest-produce.

41. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it 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 alone timber and other forest-produce may be imported, exported or moved, into, from, or within, British India;

(*b*) prohibit the import and export or moving of such timber or other produce without a pass from an officer duly authorized to issue the same, 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, reporting, examination and marking 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; the conditions under which such timber or other produce shall be brought to, stored at, and removed from, such depôt;

(*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;

(*g*) provide for the prevention and removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, 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;

(*i*) regulate the use of property-marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

42. The Local Government may by such rules prescribe, as penalties for the infringement thereof, imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees or both. Double penalties may be inflicted in cases where the offence is committed after sunset and before sunrise, after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence.

Penalty for breach of rules made under section 41.

43. 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 forty-one, or while detained elsewhere for the purposes of this Act; 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.

44. 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 render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

All persons bound to aid in case of accident at depôt.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

45. All timber found adrift, beached, stranded, or sunk; and all unmarked wood and timber, or wood or timber bearing marks which have not been registered under section forty-one, or on which the marks have been obliterated, altered or defaced by fire or otherwise,

Certain kinds of timber to become property of Government until title thereto proved, and may be collected accordingly.

shall be deemed to be the property of Government unless and until any person establish his right and title thereto, as provided in this chapter.

Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section fifty-one, and may be brought to such depôts as the Forest-officer may from time to time notify as depôts for the reception of drift-timber.

The Local Government may, by notification in the official Gazette, exempt any class of timber from the provisions of this section, and withdraw such exemption.

46. Public notice shall from time to time be given by the Forest-officer, of timber collected under section forty-five. Such notice shall contain a description of the timber and shall require any person claiming the same to present to such officer within a period not less than two months from the date of such notice a written statement of such claim.

Notice to claimants of drift-timber.

47. When any such statement is presented as aforesaid, the Forest-officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

Procedure on claim preferred to such timber.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending orders from any such Court for its disposal.

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 compensation 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.

No such timber shall be subject to process of any Civil, Criminal, or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section forty-six, 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 forty-seven, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section forty-seven, in such other person, free from all encumbrances.

Disposal of unclaimed timber.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section forty-five; 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.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sums on account of the collection thereof as may be due under any rule made in pursuance of section fifty-one.

Payments to be made by claimant before timber is delivered to him.

51. The Local Government may from time to time make rules to regulate the following matters (namely):—

Power to make rules and prescribe penalties.

(*a*) the salving, collection and disposal of all timber mentioned in section forty-five;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting, moving, storing and disposal of such timber;

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Local Government may from time to time prescribe as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine not exceeding five hundred rupees, or both.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

52. When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in committing such offence, may be seized by any Forest-officer or Police-officer.

Seizure of property liable to 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, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Application for confiscation.

Provided that when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

53. Upon the receipt of any such report the Magistrate shall with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Procedure thereupon.

54. All timber or forest-produce which is not the property of Government and 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.

Forest-produce, tools, &c., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

55. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and in any other case may be disposed of in such manner as the Court may direct.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

56. When the offender is not known, or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom he deems to be entitled to the same.

Procedure when offender not known, or cannot be found.

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

57. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section fifty-two and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Procedure as to perishable property seized under section 52.

58. The officer who made the seizure under section fifty-two, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of such order, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Appeal from such order.

59. When an order for the confiscation of any property has been passed under section fifty-four or fifty-six, as the case may be, and the period limited by section fifty-eight for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court 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 encumbrances.

Property when to vest in Government.

60. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section fifty-two.

Saving of power to release property seized.

61. Any Forest-officer or Police-officer who vexatiously and 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.

62. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,—

Penalty for counterfeiting or defacing marks on trees and timber and for altering 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.

63. Any Forest-officer or Police-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.

Nothing in this section shall be deemed to authorize such arrest for any act which is an offence under chapter IV of this Act, unless such act has been prohibited under section thirty, clause (*c*).

64. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any Forest-offence.

Power to prevent commission of offence.

65. The Magistrate of the district, and any Magistrate of the first class specially empowered in this behalf by the Local Government, may try summarily under the Code of Criminal Procedure, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees.

Power to try offences summarily.

66. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Operation of other laws not barred.

67. The Local Government may from time to time, by notification in the official Gazette, empower any Forest-officer by name, or as holding an office, to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence other than an offence under section sixty-one or section sixty-two a sum of money by way of compensation for any damage which may have been committed, and may release any property which has been seized on payment of the value thereof as estimated by such officer.

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 shall be taken under this Act against such person or property; but nothing herein contained shall exempt him from prosecution on the same facts under any other law for the time being in force.

68. When in any proceedings taken 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.

69. Cattle trespassing in a Reserved Forest, or in any portion of a Protected Forest which has been lawfully closed to grazing, 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 Forest-officer or Police-officer.

Cattle-trespass Act, 1871, to apply.

70. The Local Government may from time to time, by notification in the official Gazette, 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 sixty-nine of this Act, such fines as it thinks fit, but not exceeding the following, that is to say:—

Power to alter fines fixed by that Act.

For each elephant	ten rupees.
For each buffalo or camel	two "
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer...	one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	eight annas.

D.—Miscellaneous.

71. Every person who exercises any right in a Protected Forest, or in a Reserved Forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and

Persons interested in forest bound to assist Forest-officer and Police-officers.

every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any Forest-officer or Police-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.

72. The Local Government may invest any Forest-officer by name, or as holding an office, with the following powers, that is to say:—

Local Government may invest Forest-officers with certain powers

(*a*) power to enter upon any land and to survey, demarcate, and make a map of the same;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue a search-warrant under chapter XXVII of the Code of Criminal Procedure;

(*d*) power to hold an enquiry into forest-offences, and, in the course of such enquiry, to record evidence on oath.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial

before a Magistrate, provided that it has been taken in the presence of the accused person.

73. The Local Government may from time to time make rules—

Additional powers to make rules.

(*a*) to prescribe and limit the powers and duties of any Forest-officer under this Act;

(*b*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act;

(*c*) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and

(*d*) generally to carry out the provisions of this Act.

74. The Local Government may, in making any rule under this Act for breach of which no special penalty is provided, attach to the breach of it, in addition to any other consequences that would ensue therefrom, the punishment, on conviction before a Magistrate, of imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Power to impose penalties for breach of rules.

75. All rules made by the Local Government under this Act shall be published in the official 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.

Provided that no rule made under section twenty-eight, thirty-two, or forty-one shall be so published without the previous sanction of the Governor General in Council.

76. If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Government may, from time to time, either

Management of forests the joint property of Government and other persons.

(*a*) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

When the Government undertakes, under clause (*a*) of this section, the management of any forest, waste-land or produce, it may, from time to time, by notification in the official Gazette, declare that all or any of the provisions contained in chapters II and IV of this Act shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

77. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed: Provided that no such share shall be confiscated until the person entitled thereto, and the evidence (if any) which he may produce in proof of the due performance of such service have been heard by an officer duly appointed in that behalf by the Local Government.

Enforcement of service for which a share in produce of Government forest is enjoyed.

78. 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 under the law for the time being in force as if it were an arrear of land-revenue.

Recovery of money due to Government.

79. 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.

80. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Forest-officers deemed public servants.

81. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Indemnity for acts done in good faith.

82. Except with the permission in writing of the Local Government, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

Forest-officers not to trade.

83. Whenever it appears to the Local Government that any land is required for any of the purpose of this Act such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

SCHEDULE.

(*See section* 1.)

ACTS REPEALED.

Number and year of Act.	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.

A. PHILLIPS,
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 24th October 1877, and was referred to a Select Committee:—

No. 19 OF 1877.

A Bill to amend the Panjáb Laws Act, 1872.

For the purpose of amending the Panjáb Laws Act, 1872; It is hereby enacted as follows:—

Preamble.

1. For section 5 of the said Act, the following shall be substituted (namely):—

Substitution of new section for Act IV of 1872, s. 5.

"5. 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—

Decisions in certain cases to be according to Native law.

(*a*) 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:

(*b*) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindú law, in cases where the parties are Hindús, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is above referred to."

2. For sections 9 to 18 (both inclusive) of the same Act, the following shall be substituted:—

Substitution of new sections for Act IV of 1872, ss. 9 to 18.

"9. 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. It arises in respect of sales (whether under a decree or otherwise) of immoveable property and of foreclosures of rights to redeem such property.

Right of pre-emption.

"10. 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

(*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 of occupancy affecting such lands.

"11. The right of pre-emption shall not be presumed to exist in any town or city, or any subdivision 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.

"12. If the property to be sold or the right to redeem which is to be foreclosed is situate within, or is a share of, a village, 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 or foreclosed is situate within a village.

(*a*) first, to co-sharers in the village, in order of their relationship to the vendor or mortgagor;

(*b*) secondly, if no relation of the vendor or mortgagor claims to exercise such right, to the landowners of the pattí or other sub-division of the village in which the property is situate, jointly;

(*c*) thirdly, to any member of the village-community; and

(*d*) fourthly, to the tenants (if any) with rights of occupancy in the village:

Provided that when the property is land, to the trees standing on which the Government is entitled, such right belongs to the Lieutenant-Governor of the Panjáb in preference to all other persons.

Where two or more persons are equally entitled to such right, the person to exercise the same shall be determined by lot.

"12 A. When the property to be sold or the right to redeem which is to be foreclosed is a share in joint undivided immoveable property other than land, such right belongs to the co-sharers.

Right when property to be sold is a share in joint undivided immoveable property other than land.

"13. When any person proposes to sell any property, or to foreclose the right to redeem any property, in respect of which any persons have a right of pre-emption, he shall 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 the mortgage, as the case may be.

Notice to pre-emptors.

Such notice shall be given through the Court within the local limits of whose jurisdiction the property or any part thereof is situate, and shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village, town or city in which the property is situate.

"14. 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.

"15. When the right of pre-emption arises in respect of the foreclosure of the right to redeem any property, any person entitled to such right may, at any time within three months after the giving of the notice required by section thirteen, 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.

"16. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely):—

Suit to enforce right of pre-emption.

(*a*) that no due notice was given as required by section thirteen;

(*b*) that tender was made under section fourteen or section fifteen and refused;

(*c*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*d*) in the case of a foreclosure, 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 foreclosure, 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.

"17. If the Court find for the plaintiff, the decree shall specify a day on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid.

Decree to fix time for payment.

"18. If such purchase-money or amount is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or foreclosure, lose his right of pre-emption over the property to which the decree relates."

Effect of non-payment of purchase-money.

3. For section 35 of the same Act the following shall be substituted (namely):—

Substitution of new section for Act IV of 1872, s. 35.

"35. The Court of Wards may, at its discretion, take charge of, and administer, the estates of all disqualified persons, that is to say:—

Jurisdiction of Court of Wards.

(*a*) females deemed by the Local Government incompetent to manage their estates,

(*b*) persons who have not completed the age of eighteen years,

(*c*) idiots,

(*d*) lunatics,

(*e*) persons declared by the Local Government, incapable, owing to physical defects or infirmities, to manage their own estates,

(*f*) persons convicted of a non-bailable offence and disqualified, in the opinion of the Local Government, by vice or bad character from managing their estates,

(*g*) persons declared by the Local Government, on their own application, to be disqualified from managing their estates:

Provided that the Court of Wards shall not take charge of or administer the estate of any person of any of the classes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of this section, unless he has inherited a beneficial interest in an estate for which a settlement was made with his ancestor, or in respect of which he would have been entitled to be settled with, if he had been competent to make an agreement for the payment of revenue, or unless he is entitled by inheritance to an assignment of land-revenue:

Proviso.

Provided also 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."

Further proviso.

4. To section 38 of the same Act the following clause shall be added (namely):—

Amendment of Act IV of 1872, section 38.

"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."

STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are four: first, to make some necessary amendments in the drafting of the Panjáb Laws Act, section 5: secondly, to make like amendments in the sections of that Act relating to pre-emption and to give the Lieutenant-Governor a right of pre-emption in respect of land on which trees belonging to Government are standing: thirdly, to extend the jurisdiction of the Court of Wards to the estates of three classes of proprietors, namely, those incapable, owing to physical defects or infirmities, of managing their own estates; those convicted of a non-bailable offence and disqualified by vice or bad character from managing their estates; and those declared, on their own application, to be so disqualified. The fourth and last object of the Bill is to render all persons whose property is under the superintendence of the Court of Wards incompetent to charge such property without the sanction of the Court.

SIMLA; *The 18th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
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 24th October 1877, and was referred to a Select Committee:—

No. 20 OF 1877.

A Bill to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices.

Preamble.

Whereas by the Merchant Shipping Act, 1854, section 213, and by the Merchant Shipping Act Amendment Act, 1855, section 16, it is enacted that the Board of Trade may, in manner therein mentioned, and in the name of Her Majesty, sue for and recover the wages due to, and expenses incurred in respect of, the distressed seamen and apprentices in the said sections mentioned; And whereas it is expedient to empower such persons as the Governor General in Council may think fit to sue for and recover in British India in the name of the Secretary of State for India in Council, such wages and expenses, when the same are charged upon any ship, or recoverable from any master, owner or other person, found in British India; It is hereby enacted as follows:—

Power to appoint persons to sue.

1. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, any wages or expenses recoverable under the said sections of the said Acts in cases where such wages and expenses are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India. Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

Suits, &c., to be instituted in name of Secretary of State for India in Council.

2. All suits and proceedings under this Act shall be instituted and carried on in the name of the Secretary of State for India in Council.

STATEMENT OF OBJECTS AND REASONS.

By the Merchant Shipping Act, 1854, section 213, and 18 & 19 Vict., c. 91, section 16, provision is made for the recovery by the Board of Trade of wages due to, and expenses incurred in relieving, distressed seamen and apprentices in foreign and colonial ports. These distressed seamen are in many cases Natives of India, and belong to ships which are either registered in or trade to India, and which are seldom, if ever, found within the ports of the United Kingdom. In such cases the Board of Trade has considerable difficulty in recovering the sums expended. When the distressed seamen are Natives of this country, these expenses are charged to the Indian revenue. It is therefore desirable that the Government of India should be enabled to empower some person here to sue, in case the ships or persons chargeable are found in this country. The Bill effects this object by providing that such suits may be brought in the name of the Secretary of State in Council by such persons as the Governor General in Council may, by notification in the *Gazette of India*, generally or specially authorize in that behalf. The Bill will also enable persons so authorized to sue in all cases in which the ships or persons chargeable are found in this country, even though the Indian revenue may not be concerned.

SIMLA; *The 9th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

[First publication.]

The following Report of a Select Committee, together with the Bill as amended by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 24th October 1877:—

WE, the undersigned members of the Select Committee to which the Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India was referred, have the honour to report that we have considered the Bill and the papers specified in the margin.

From Financial Department, No. 1354, dated 18th June 1870, and enclosures.
" ditto No. 1813, dated 5th July 1870, and enclosures.
" ditto No. 2150, dated 23rd July 1870, and enclosures.
" ditto No. 2998, dated 12th November 1870, and enclosures.
" Acting Chief Secretary to Government, Bombay, No. 5623, dated 15th November 1870, and enclosures.
" Financial Department, No. 291, dated 16th January 1871, and enclosures.
" ditto No. 1745, dated 24th July 1876, and enclosure.
Telegram from the Secretary of State for India, dated 5th September 1876.
From Secretary, Bengal Bonded Warehouse Association, dated 13th December 1876.
" Officiating Secretary, Government of Bengal, No. 92, dated 15th January 1877, and enclosures.
" Commissioner of Orissa, No. 1161, dated 13th January 1877.
" Chief Secretary to Government, Bombay, No. 845, dated 10th February 1877, and enclosures.
" Acting Assistant Secretary to the Government of Bengal, No. 304, dated 6th February 1877, and enclosures.
" Secretary to the Chief Commissioner, British Burma, No. $\frac{158}{17}$, dated 3rd February 1877, and enclosures.
" Officiating Secretary to the Board of Revenue, Lower Provinces, No. 69B, dated 1st February 1877.
" Chairman, Trades Association, Madras, dated 7th February 1877, and enclosures.
" Chief Secretary to Government, Bombay, No. 1084, dated 20th February 1877, and enclosures.
" Secretary to Government, Madras, No. 1021, dated 10th March 1877, and enclosures.
Demi-official letter from L. Reid, Esq, Commissioner of Customs, Bombay, dated 24th March 1877, and enclosures.
Memorandum by Officiating Secretary to Board of Revenue, Lower Provinces, No. 600 B, dated 25th August 1877, and enclosures.
Note by the Hon'ble T. C. Hope, dated 4th October 1877.

2. In accordance with the suggestion of the Committee appointed by the Bombay Government, the definition of "Customs-port" has been made (section 3, clauses (*d*) and (*e*)) to include, and that of "Foreign Port" to exclude, ports not in British India which are entitled to be treated as British Customs-ports.

3. The existing Act limits the privileges of coasting vessels to vessels which do not touch at any intermediate foreign port. But this has been found difficult of application, especially on the Western Coast, where foreign ports are numerous, and the limitation is illegally waived in the case of coasting steamers. But the Bombay Committee point out that all craft ought to be treated alike, and we think that, where there is danger of smuggling, special restrictions may be imposed on particular classes of goods under the powers of chapter XIII. The definition (section 3, clause (*g*)) has therefore been expanded.

4. We have also enlarged the definition of "Master" (section 3, clause (*h*)) so as to include a ship's agent appointed in writing by the master to be responsible on his behalf, when such appointment is approved by the Customs-collector.

5. In consequence of representations received from the Chief Commissioner of British Burma of the expediency of legalising coasting trade with petty ports which it would not pay to constitute Customs-ports, a provision has been inserted in section 11, with the concurrence of the Department of Revenue, Agriculture and Commerce, enabling the Local Government to recognize such ports for the purposes of the coasting trade only.

6. In accordance with a recommendation of the Bombay Committee, a clause framed on the model of the English Customs Act of 1876, section 153, has been added to section 17 of the Bill, prohibiting the importation or exportation of articles of foreign manufacture bearing names, marks or brands being, or purporting to be, those of manufacturers resident in the United Kingdom or British India.

7. By a little condensation, the whole of chapter X of the Bill as introduced has been dispensed with. The privilege of transhipment has been extended to sailing vessels.

8. By section 38, an owner not having sufficient information regarding any goods has been allowed, as suggested by the Bengal Board of Revenue, to deposit them temporarily in a warehouse.

The term "real value" has also been defined, as the want of a definition has been much felt. The obligation to declare real value has likewise, for statistical purposes, been extended to all goods, whether dutiable or not.

9. The third clause of section 39, by which it is provided that undervalued goods retained for the use of Government shall be sold by public auction, has given rise to some difference of opinion, some authorities advocating the substitution of a general power to dispose of the goods for the benefit of Government, in accordance with the English Customs Act of 1853. We have reserved this question for further consideration after enquiry as to the alleged rarity of cases in which difficulty or loss to Government is occasioned by the present provision.

10. Sections 45 and 46 (33 and 34 of the Bill as introduced) have also elicited wide differences of opinion between different mercantile and Custom-house authorities. The former section is identical in principle with the existing English law: section 20 of the Customs Consolidation Act, 1876, runs as follows:—

"In the event of any increase, decrease, or repeal of duties of customs chargeable upon any goods or commodities after the making of any contract or agreement for the sale or delivery of such goods duty paid, it shall be lawful for the seller, in case such increase shall accrue before the clearance and delivery from the warehouse of such goods at such increased.

duty, and after payment thereof, to add so much money to the contract-price as will be equivalent to such increase of duty, and he shall be entitled to be paid and to sue for and recover the same; and it shall be lawful for the purchaser under any such contract or agreement, in case such decrease or repeal shall take effect before the clearance and delivery from the warehouse at such decreased duty, or free of duty, as the case may be, to deduct so much money from the contract-price as will be equivalent to such decrease of duty or repealed duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

The latter section is in harmony with Mr. Wilson's financial statement of February 18th, 1860, and the consequent section 2 of Act X of 1860, as also with the notification of the Government of India, No. 3180, dated 3rd September 1875. Both sections originated in the memorials and representations which the Government of India is in the habit of receiving whenever a change of tariff takes place. We have added another illustration to section 45, to express its scope more fully; but we have left the general question of the retention of both sections open for discussion in Calcutta.

11. We have omitted from section 50 (121 of the Bill as introduced) the last clause, which followed the existing law, as it has been justly pointed out by Mr. Lane, the Collector of Customs at Calcutta, that it is unreasonable to refuse drawback on ships' stores, and both inconsistent with the permission to export from bond (section 30) and at variance with the English Act.

12. In deference to the unanimous opinion expressed in the reports, the rate of drawback has been re-entered in section 50 at the existing rate of seven-eighths, instead of three-fourths, to which it was raised in the Bill as introduced.

13. In accordance with representations received from the Bombay Committee and other quarters, we have, with the concurrence of the Department of Revenue, Agriculture and Commerce, extended to the Indian Marine and Marine Survey (section 56) the privileges with regard to wine, provisions and stores which have hitherto been confined to officers and ships of Her Majesty's Navy. The privilege has likewise been extended in all cases to spirits.

14. In order to meet the case of the foreign ports of Native States on the Western Coast, which are not surrounded by customs preventive lines, the existing practice of refusing drawback on exports to such ports has been legalised (section 57) in the form of empowering the Governor General in Council to prohibit drawback in the case of any particular port. This is in accordance with the Bombay Committee's suggestion.

15. In accordance with the existing practice at Bombay, which originated in section 35 of Act I of 1852, the Customs-collector has been empowered (section 58) to reject, if he sees fit, any claim for drawback amounting to less than ten rupees. The Bombay Municipal Act provides similarly regarding petty refunds of town-duty.

16. Section 44 of the Bill as introduced was inserted in consequence of a long correspondence which arose in Bombay with the Chamber of Commerce out of the practice prevailing there of masters entering in the manifest the names of the ships' agents as consignees of the cargo, and the true consignees complaining of delay in receiving their goods and of the departure of the vessel in the interim. The Bombay Committee, however, now find that the section will not meet the case, and, though it is not objected to by Bengal and Madras (chiefly, it would seem, owing to difference of circumstances), we think it better to omit it, and to obviate the difficulty partly by an addition to section 71, permitting port-clearance to be refused except on security for the clearance of the import-manifest, and partly by new provisions in chapter IX, which will be explained hereafter.

17. *Section 64* is new, to adapt the law to actual circumstances, under which the manifest sometimes arrives by overland mail before the vessel itself, in which case the saving of time by commencing the preliminaries for her discharge is desirable.

18. *Section 71.*—The Madras Committee recommend the addition of a clause authorising the refusal of port-clearance to any vessel the master or agents of which have not made all reasonable endeavours to land all the cargo for the port. Formerly, they say, they could stop a vessel through the High Court, or bring an action for overcarrying their goods; but now canal-steamers protect themselves by a clause in the bill of lading. The Madras Trades Association support this recommendation by a letter (Paper No. 9) giving details of packages actually overcarried. On the other hand, overcarrying is defended on the grounds, 1st, that boats are scarce at Madras; 2nd, that boatwork is there prohibited after sundown; 3rd, that mail-contracts prevent steamers making long delays. We have reserved this question for discussion at Calcutta.

19. *Section 75.*—In accordance with the recommendations of the Calcutta Committee and the Bengal Board, the periods of unloading and loading have been combined; but the aggregate of 30 days has been reduced to 20. The additional periods for loading and unloading have also each been reduced to one day for every 100 tons instead of every 50. This will still leave a vessel of 1,200 tons, for instance, 32 days, which is ample. Sections 50 and 108 of the Bill as introduced have been consolidated into this section, and words have been inserted to prevent more than one officer at a time being claimed as of right when, from smallness of establishment or press of work, extra officers may not be available.

20. *Sections 76 and 77.*—Special provision has been made in the concluding clauses for goods being water-borne from places not duly appointed as wharves, and without the presence or authority of an officer of customs, as also without boat-notes, in order to meet the circumstances of Calcutta, as represented by the Board of Revenue. In section 77, the suggestions from Burma have also been attended to, and sections 61 and 125 of Act VI of 1863 (Bill 1, sections 53, 58 and 111) have been amalgamated.

21. *Sections 97 and 98.*—These are the new sections inserted, and referred to above in paragraph 16, in order to permit the prompt discharge of cargo where there is urgent

necessity, or there are special facilities, for it. We are disposed to consider that a provision of this nature is the best for meeting the difficulties now felt and reconciling the conflicting interests of ship-owners and owners or consignees of goods. The latter are protected from double charges for agency. The sections, however, are tentative, and may require amendment after they have been scrutinized by the Trade and the Customs Departments at Bombay and Calcutta.

22. Adverting to section 106, we have altered the form of the bond, in accordance with a suggestion from Madras, so as to allow of enforcement in a District Court instead of in the High Court, though this was really not indispensable, since any of the forms may, even under the existing Act, be modified by the Chief Customs Authority.

23. *Section 107.*—In accordance with a suggestion from British Burma, arising out of an opinion by the Advocate General, a clause has been added to make it clear that a fresh bond is not indispensable on every fresh removal of the goods while in warehouse.

24. *Section 116.*—Permission to bottle off wines and spirits has been added, in conformity with the English Act and suggestions from Bengal.

25. *Section 132.*—This section has been modified in accordance with suggestions from Bengal, so as to place recovery of rent on the same footing as recovery of duty.

26. *Section 137* has been modified to suit Calcutta, in the same way as sections 76 and 77 (*vide* supra, paragraph 20).

27. *Section 140.*—In order to obtain correct statistics of imports and exports, it has been made compulsory on the owner of goods short-shipped or re-landed to give information of the fact to the Custom-house. This is in accordance with recommendations received and with the English law regarding short shipments.

28. Chapter XVIII of the Bill as introduced, which was entitled "Offences and Penalties," has elicited some differences of opinion as to what was the best position in the Act for such matters. We have now, in the first place, transferred to a separate chapter everything relating to procedure. With regard to the offences and penalties themselves, we are of opinion that the chief thing to be considered is the convenience of the mercantile and nautical public rather than that of adjudicating officers. Anybody who wishes honestly to know what the law requires him to do, will find his study of the existing Act perpetually interrupted by the long offence and penalty clauses, the terrors of which it cannot be indispensable to place in close juxtaposition with every injunction or obligation.

We have now recast the chapter (XIV) in tabular form, shewing in three columns the offence, the section to which it has reference, and the penalty, and trust that this will meet the views of all parties. To the adjudicating officer it will, we believe, not be inconvenient; to the public it will be a relief not to have every section burdened with unnecessary matter, while Custom-house officials may, if they wish, have the chapter printed separately to hand to every master on arrival, or to frame and post up in conspicuous places at the Custom-house and wharves.

29. We have made numerous changes in the phraseology of the Bill throughout, to secure both clearness and brevity. Considerable alterations have also been made in the arrangement of chapters and sections, with the view both of condensation and of bringing analogous provisions together and securing a practical sequence. The chapters now stand as follows:—

Chapter I.—Preliminary.
" II.—Appointment of officers in the Department of Customs.
" III.—Appointment of ports, wharves, custom-houses, warehouses and boarding and landing-stations.
" IV.—Restrictions and prohibitions of importation and exportation.
" V.—Levy of, and exemption from, customs-duties.
" VI.—Drawback.
" VII.—Arrival and departure of vessels.
" VIII.—General provisions affecting vessels in port, &c.
" IX.—Importation or discharge.
" X.—Warehousing.
" XI.—Exportation or shipment, and re-landing.
" XII.—Spirits.
" XIII.—Coasting trade.
" XIV.—Offences and penalties.
" XV.—Procedure relating to offences, appeals, &c.
" XVI.—Miscellaneous.

30. We propose to consider the Bill further in Calcutta, and recommend that it be in the meantime published in the *Gazette of India* for general information.

SIMLA;
The 20th October 1877.

T. C. HOPE.
WHITLEY STOKES.
F. R. COCKERELL.

No. II.

SEA CUSTOMS BILL, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
2. Repeal of enactments.
3. Interpretation.

CHAPTER II.

APPOINTMENT OF OFFICERS OF CUSTOMS, &c.

4. Local Government to appoint necessary officers.
Suspension and dismissal of such officers.
5. Local Government may delegate its powers under section 4.
Suspension and dismissal of subordinate officers.
6. Collector of District to perform duties of Customs-collector, where there is no separate Customs-collector.
7. Making and publishing of rules.
8. Appeals how and by whom to be decided.
9. Deposit, pending appeal, of duty demanded.
10. Customs-officers exempted from service on any jury or inquest or as assessors.

CHAPTER III.

APPOINTMENT OF PORTS, WHARVES, CUSTOM-HOUSES, WAREHOUSES AND BOARDING AND LANDING-STATIONS.

11. Power to appoint Ports, Wharves, Custom-houses, Warehouses and Boarding and Landing-stations.
12. Power to declare that an Indian Port not in British India shall be regarded as a Customs-port for certain purposes.
13. Power to declare Warehousing Ports.
14. Appointment of public Warehouses.
15. Power to license private Warehouses.
Revocation of license.
Form of application for license.
16. Stations for Customs-officers to board and also land from ship.

CHAPTER IV.

PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

17. Prohibitions and restrictions.
18. Importation without license of arms and ammunition prohibited.
Proviso.
19. Governor General may prohibit or restrict importation or exportation of goods.
20. Importation and exportation.

CHAPTER V.

LEVY OF, AND EXEMPTION FROM, CUSTOMS-DUTIES.

21. Import-duties.
22. Export-duties.
23. No duties on goods carried from one Customs-port to another.
Proviso.

SECTIONS.
24. Power to fix values of dutiable goods.
25. Power to exempt from Customs-duties.
Power to authorize, in special cases, exemption from payment of duty.
26. Baggage in actual use.
27. Reimported articles of country-produce dutiable in certain cases
Proviso.
28. Goods derelict and wreck dutiable in certain cases.
29. Duty on opium re-exported by sea.
30. Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported duty-free on certain conditions.

Transhipment.

31. Power to permit transhipment without payment of duty.
Proviso.
32. Rules regulating exercise of power, and transhipment.
33. Entry and warehousing, on arrival, of goods transhipped under section 31, clause 2.
Proviso.
34. Transhipment of stores from one vessel to another of same owner without payment of duty.
35. Officer of Customs to superintend transhipment.
36. Levy of transhipment-fee.
37. Power to prohibit transhipment.

Miscellaneous Provisions.

38. Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.
39. Under-valued goods how dealt with.
40. Duties on goods retained under section 39 for use of Government.
41. Claims to abatement of duty on account of damage how to be treated.
42. Disposal of damaged goods and levy of duty thereon.
43. Date of importation how determined.
44. Date of exportation how determined.
45. Contracts for sale of goods, duty on which is raised or lowered before performance.
46. Duty leviable on sea-borne goods, duty on which has been altered during transit.
47. Payment of duties short-levied or erroneously refunded.
48. No refund of charges erroneously levied or paid, unless application made within three months.
49. Dutiable goods may be passed on security for duty.

CHAPTER VI.

DRAWBACK.

50. Amount of drawback allowable on re-export.
Conditions for grant of drawback.
Drawback to be allowed on goods exported to Customs-port and thence to Foreign Port.
Proviso.
51. Drawback on exportation of spirit.
52. Drawback of duties on wine and spirits allowed for officers of Navy.
53. Persons entering such wine or spirits for drawback to declare name and rank of officer claiming same.

SECTIONS.
54. Transfer of wine or spirits from one Naval officer to another, &c.
55. Provisions and stores for Her Majesty's Navy exempt from duty.
56. Privilege extends to Indian Marine and Marine-survey.
57. Governor General in Council may declare what goods are identifiable, and may prohibit drawback in case of specified Foreign Port.
58. No drawback to be allowed in certain cases.
59. Time to claim and demand payment of drawback.
60. Declaration to be made by parties claiming drawback.

CHAPTER VII.

ARRIVAL AND DEPARTURE OF VESSELS.

61. 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.
62. Delivery of manifest where no place has been so fixed.
63. Description of manifest.
Amendment of errors in manifest.
64. Agent may deliver manifest.
65. Duty of person receiving manifest.
66. Bulk not to be broken until manifest, &c., delivered, and ship entered at Custom-house.
67. Master, if required, to deliver bill of lading, &c., to Customs-collector.
68. No vessel to depart without port-clearance.
69. No Pilot to take charge of any vessel proceeding to sea without production of port-clearance.
70. Master on applying for port-clearance to deliver manifest and certificates.
71. Port-clearance may be refused unless certain conditions are fulfilled.

CHAPTER VIII.

GENERAL PROVISIONS AFFECTING VESSELS IN PORT, &c.

72. Power to depute officer of Customs to board ships.
Proviso.
73. Servant to be received with officer.
Accommodation of officer and servant.
74. Officers of Customs to have free access to every part of ship, and may seal and secure goods.
Customs-collector may authorize search and opening of locks.
75. Period allowed for discharge and shipment of cargo.
Consequence of exceeding same.
Allowance for period during which vessel is laid up.
76. Goods not to be landed, shipped, or water-borne on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.
77. Boat-note.
78. Goods water-borne to be forthwith landed or shipped.
79. Goods not to be landed elsewhere than at appointed wharf or place.

SECTIONS.
80. Power to prohibit plying of unlicensed cargo-boats.
Issue of licenses.
81. Customs-collector may require goods to be weighed or measured on board before landing.
82. Customs-officer may open package and examine goods shipped.
83. Customs-collector may take samples of goods.
84. Owner to pay expense incidental to compliance with Custom-house rules.
Fee for landing baggage.
85. No compensation for loss or injury except on proof of neglect or wilful act.
86. Rates of wharfage-fees.
87. Duplicates may be granted and amendments made on payment of fee.
88. Owner to deliver duplicate of bill of entry or shipping-bill, if required.
89. Agents must be duly authorized.
90. Agent to produce authority if required.

CHAPTER IX.

IMPORTATION OR DISCHARGE.

91. Discharge of cargo may commence on receipt of due permission.
92. Portion of import-cargo intended for another port, ship's stores, &c., may be kept on board free of duty.
93. Goods not to leave ship unless entered in manifest.
94. Procedure in respect of goods not landed within time allowed.
Effect of not discharging cargo in any less period specified in bill of lading.
95. Goods may be landed at any time after arrival, with consent.
96. Notice regarding unclaimed packages.
97. Procedure in case of non-payment of duties within four months after entry of vessel.
98. Immediate discharge permitted in certain cases.
99. Goods not cleared within two months from date of landing to be sold.
Disposal of overplus.
Proviso.
100. Entry for home-consumption.

CHAPTER X.

WAREHOUSING.

101. Deposit of goods in warehouse without payment of duty.
102. Warehouse-keeper.
Responsibility of keeper.
103. Chief Customs-Authority to decide where any goods may be deposited in public warehouse, and on what terms.
Table of rates of rent.
104. Form of application for admission of goods into warehouse.
105. No goods to be warehoused unless assessed for Customs-duty.
Saving of re-assessment of warehoused goods on clearance for home-consumption.
106. Bond for duty on goods sought to be warehoused. Form of bond.
107. Terms of bond to be executed.

SECTIONS.
108. Period for which goods may remain warehoused under bond.
When bond for duty on goods in private warehouse may be sued on.
109. Procedure in respect of goods to be warehoused.
110. Packages, &c., to be marked and numbered before admission into warehouse.
111. Goods how warehoused.
112. Warrant to be given every time goods are warehoused.
Form of warrant.
113. Access of Customs-officer to private warehouse.
114. Power to cause packages lodged in warehouse to be opened and examined.
115. Access of owners to warehoused goods.
116. Goods in warehouse may be sorted, repacked, &c., by owner, &c.
117. Power to remit duties on warehoused goods lost or destroyed;
and if goods are damaged, duty to be levied on actual value.
118. Import-duty to be on quantity or value registered at time of importation.
Proviso as to wines, spirits, beer or salt.
119. Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.
120. Public warehouse-keeper, or licensee of private warehouse, answerable for weight or gauge.
Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.
121. Power to remove goods from one warehouse to another in same Port.
122. Bonded goods may be removed from one Port to another.
Procedure.
123. Officers at Port of removal to transmit account of goods to officers at Port of destination.
Owner to execute bond for due arrival, &c.
124. Remover may enter into a general bond.
125. Goods on arrival at Port of destination to be subject to same laws as goods on first importation.
126. Removal of goods to be noted on the bond, with particulars.
127. Goods not to be removed from warehouse, except after application to Customs-collector.
128. Form of application for removal of goods.
Twenty-four hours' notice to be given.
129. On goods being removed improperly or otherwise than for export, &c., full duty to be paid.
130. Procedure on failure to pay duty.
131. Expenses of carriage, packing, &c., to be borne by owners.
132. Payment of rent and warehouse-dues.
In case of failure, goods may be sold, &c.
133. Register of bonds to be kept.
When bonds are to be cancelled and returned to obligee.
134. Duty on warehoused goods to be settled within three years.
135. Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

CHAPTER XI.

EXPORTATION OR SHIPMENT AND RE-LANDING.

SECTIONS.
136. Permission for entry outwards to be obtained before export-cargo is shipped.
137. Exporter to deliver shipping-bill before shipping any goods.
138. On entry outwards, bond to be given for shipping and landing.
139. Additional charge on goods passed for shipment after port-clearance has been granted.
140. Notice of non-shipment or re-landing, and return of duty thereon.
Proviso.
141. Goods re-landed or transhipped from a vessel returning to Port, or putting into another Port.
142. Vessel returning to Port may enter and land goods under import-rules.

CHAPTER XII.

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 from one Customs-port to another, but such spirits may be exported under bond.
149. Duty on spirits exported under bond from one Indian Port to another, how 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.
Decision where no rules or their applicability disputed.

CHAPTER XIII.

COASTING TRADE.

154. Application of Act to coasting vessels.
155. Power to regulate carriage of goods coastwise.
156. Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.
157. Power to require bond before port-clearance is granted.
158. Time for delivery of pass.
159. Goods on coasting vessel, if excisable, not to be unladen without permission.
160. Grant and revocation of general pass.
161. Rules respecting cargo-book to be kept by Masters of coasting vessels.

SECTIONS.
162. Power to prescribe rules for Masters of other coasting vessels.
163. Power to board and examine any coasting vessel.

CHAPTER XIV.

OFFENCES AND PENALTIES.

164. Punishments for offences.
1. For infringing rules made by Chief Customs-Authority.
2. For landing or shipping goods at unauthorized Port, &c.
3. For shipping, landing, concealing, &c., contrary to Act.
4. Vessels in Port with a cargo, and afterwards found in ballast and cargo unaccounted for, liable to confiscation.
5. For Masters of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.
6. For not bringing-to at boarding-station.
7. For vessel removing from place of mooring, or unlading, without due authority.
8. Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.
9. For infringing rules or orders regarding transhipment.
10. For unauthorized declaration as to value of goods.
11. Wine not laden, or unladen without permission, liable to confiscation.
12. Confiscation of goods entered for drawback, which are less in value than the amount of drawback claimed.
13. Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.
14. For proceeding inward beyond fixed place before delivery of manifest.
For omitting to deliver manifest when vessel anchors below reporting-station.
15. For like omission when reporting-station has not been fixed.
16. For Master delivering unsigned or untrue manifest.
17. For Pilot, &c., not receiving manifest.
18. For breaking bulk without permission.
19. For false entry, fraudulent alteration, &c.
20. For attempting to depart without port-clearance.
21. For departing without port-clearance.
22. On Pilot taking charge of vessel without port-clearance.
23. For refusing to receive officer of Customs on board.
24. For disobeying section 73.
25. For Masters resisting search, &c.
26. For lading in absence of Customs-officer.
27. For removing goods contrary to section 76.
28. For sending goods without or in excess of boat-note.
29. For non-receipt or non-delivery or non-signing of boat-note.
30. For not landing goods in accordance with section 78, or for landing, &c., goods contrary to section 79.
31. Goods found in unlicensed cargo-boats may be confiscated.
32. For non-delivery of duplicate bill of entry, &c.
33. For acting as agent without authority.
34. For not being able to account for missing or deficient package, &c.
35. For discharging goods not duly entered in manifest.
36. Goods found concealed liable to confiscation.
37. Goods not agreeing in description and quantity with entry in manifest liable to confiscation or extra duty.
38. For removing goods after landing and before due entry.
39. Goods brought to be passed through Custom-house liable to confiscation in case of discrepancy, misdescription, &c.
40. For misdescription of goods.
41. For taking or passing goods without entry.
42. Prohibited or dutiable goods concealed in baggage.
43. For improper carrying into warehouse.
44. For withholding or removing before examination goods entered to be warehoused.
45. For warehousing goods improperly.
46. For refusing to open private warehouse when duly required.
47. For neglecting to stow goods properly in warehouse.
48. For importer or owner of warehoused goods clandestinely gaining access.
49. For altering warehoused goods.
50. For deficiencies in a private warehouse.
51. For neglecting to produce goods when required.
52. Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.
53. For excess, in private warehouse, over registered quantity.
54. For removing warehoused goods improperly.
55. For taking goods out of warehouse without paying duty.
56. For shipping goods before entry outwards.
57. For shipping goods not in manifest, &c.

SECTIONS.

58. Certain goods if entered in manifest and not shipped, or if relanded without notice, liable to confiscation.
59. For landing at place other than that for which goods have been cleared.
60. For deficiency in goods on which drawback has been paid on board vessel returning to Port, or putting into another Port.
61. For contravening rules relating to spirits.
62. For irregularly re-landing spirituous liquors.
63. For contravention of rules as to coasting trade.
64. For signing false account.
65. For failure to produce certificate.
66. For failure of Master of coasting vessel to deliver pass.
67. For breach of rules as to cargo-book.
68. For failure to keep cargo-book correctly, &c.
69. For breach of rules under section 134.
70. For breach in respect of lading, carrying coastwise, and unlading.
71. For refusal to produce documents.
72. For making false declaration, refusing to answer questions, &c.
73. For possession of smuggled goods.
74. For searching persons on insufficient grounds.
75. Customs-officers, if guilty of breach of duty, how punishable.
76. Customs-officers committing or conniving at frauds, how punishable.
77. For neglect of Police-officer to give notice.
78. Punishment for obstruction to Customs-officers.

165. Tackle, &c., included in confiscation of vessels.
Packages and contents included in confiscation of goods.
Also conveyances and animals used in removal.

CHAPTER XV.

PROCEDURE RELATING TO OFFENCES, APPEALS, &c.

166. Persons may be searched on reasonable suspicion.
167. Persons may, before search, require to be taken before Magistrate, &c.
168. Officers of Customs may stop vessels, carts, &c., and search for goods on reasonable suspicion.
169. Magistrate may issue search-warrant on application.
170. Persons reasonably suspected may be detained.
171. Persons detained to be taken to nearest Magistrate or Customs-collector.
172. Persons taken before Magistrate may be detained or admitted to bail.
173. Person escaping may be afterwards detained.
174. Persons in Her Majesty's Navy, when detained, to be secured on board until warrant procured.
175. Vessels, goods and persons may be seized or detained.
176. Vessels and goods seized how dealt with.
177. Procedure in respect of goods seized on suspicion.
178. When seizure is made, seizing officer to give reason in writing.
179. Adjudication of confiscations and penalties.
180. Local Government may confer like powers on other officers of Customs.
Proviso.
181. Option to pay fine in lieu of confiscation.
182. On confiscation of vessel or goods, property to vest in Her Majesty.
183. Levy of penalty for failure to bring-to when required under section 16.
184. Penalty under Act not to interfere with punishment under other law.
185. Offences not especially provided for how adjudicated.
186. Appeal from subordinate to Chief Customs-Authority.
187. Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs-Authority.
188. Goods on which penalty incurred not to be removed till payment.
Goods of person liable to fine or penalty may be detained.
189. Enforcement of payment of penalty.
190. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.
191. Imprisonment to terminate upon recovery of fine.
192. Or of proportional part of fine.

CHAPTER XVI.

MISCELLANEOUS.

193. Rules to be notified.
194. Notifications made may be cancelled.
195. Remission of duty and compensation to owner in certain cases.
196. Appropriation of penalties, &c., and grant of rewards.
197. Saving of Calcutta Port Commissioners' and Bombay Port Trust Acts.

SCHEDULE.

PART I.—ACTS REPEALED.
PART II.—FORMS.
A. Form of Bond for Import-duty.
B. Form of Bonded Warehouse-warrant.
C. Form of Bond for removal of Spirits from licensed Distillery.
D. Form of Coasting-pass.

A Bill to consolidate and amend the law relating to the levy of Sea Customs-duties.

WHEREAS it is expedient to consolidate and amend the law relating to the levy of Sea Customs-duties; It is enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Sea Customs Act, 1877:" Short title.

And shall come into force on the passing thereof. Commencement.

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 appointments and notifications made, and licenses issued, under Act No. VI of 1863, shall, as far as may be, be deemed to have been respectively made and issued under this Act.

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

(*a*) "Chief Customs-Authority" denotes the person authorized to exercise, subject to the Local Government, the chief control in matters connected with Sea-customs in any place to which this Act applies: "Chief Customs-Authority."

(*b*) "Chief Customs-Officer" denotes the Chief Executive Officer of Sea-customs for any Port to which this Act applies: "Chief Customs-Officer."

(*c*) "Customs-collector" includes every officer of Customs for the time being in separate charge of a Custom-house, or duly authorized to perform all, or any special, duties of an officer so in charge: "Customs-collector."

(*d*) "Customs-port" denotes any Port in British India at which Sea Customs-duties are leviable, and any Foreign Port which has been declared under section 12 to be a Customs-port: "Customs-port."

(*e*) "Foreign Port" includes Aden and any port or place in India not situated in British India, and not declared under section 12 to be a Customs-port: "Foreign Port."

(*f*) "Vessel" includes anything made for the conveyance by water of human beings or property: "Vessel."

(*g*) "Coasting vessel" denotes any vessel proceeding from one Customs-port to another Customs-port, whether touching at any intermediate Foreign Port or not: "Coasting vessel."

(*h*) "Master" includes every person, except a Pilot, having command or charge of any vessel: and also a ship's agent, appointed in writing by the master to be responsible on his behalf when such appointment is approved by the Customs-collector: "Master."

(*i*) "Warehouse" denotes any place 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."

(*j*) "Owner" includes importer, exporter and consignee, and an agent of any of them duly appointed and authorized under this Act. "Owner."

CHAPTER II.

APPOINTMENT OF OFFICERS OF CUSTOMS, &c.

4. The Local Government of every place in which duties of Sea-customs are leviable, shall appoint such persons as it thinks fit to be officers of Customs, and to exercise the powers conferred, and to perform the duties imposed, by this Act on such officers. Local Government to appoint necessary officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him. Suspension and dismissal of such officers.

5. The Local Government may delegate to any officer of Customs all or any of the powers vested in it by section four. Local Government may delegate its powers under section 4.

Every person appointed in exercise of such delegated power may be suspended or dismissed by the officer who appointed him. Suspension and dismissal of subordinate officers.

6. At any place at which there is no Customs-collector, the Collector of the District and the officers subordinate to him may perform all duties required by this Act to be performed by a Customs-collector and other officers of Customs. Collector of District to perform duties of Customs-collector, where there is no separate Customs-collector.

7. The Chief Customs-Authority may from time to time, with the sanction of the Local Government, make rules consistent with this Act for regulating the practice and proceedings of, and the delegation of their duties by, officers of Customs. Making and publishing of rules.

8. If any dispute arises between any officer of Customs and any Master of a vessel, or owner of goods, 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 decide such dispute, subject to an appeal to the Local Government. Appeals how and by whom to be decided.

9. Where the dispute relates to the duty leviable in respect of any goods, the owner of such goods, if dissatisfied with such decision, shall deposit in the hands of the Customs-collector at the Port of importation or exportation, respectively, the amount of duty demanded by the deciding officer, pending the settlement of the matter on appeal. Deposit, pending appeal, of duty demanded.

Upon payment of such deposit and compliance with the provisions of this Act relating to the entry or shipment of such goods, the Customs-

collector shall cause the goods to be delivered to such owner for importation or exportation, as the case may be.

Customs-officers exempted from service on any jury or inquest or as assessors.

10. No Chief Customs-Authority or Chief Customs-Officer, and no other officer of Customs whom such Chief Authority or Chief Officer deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest, or as an assessor.

CHAPTER III.

APPOINTMENT OF PORTS, WHARVES, CUSTOM-HOUSES, WAREHOUSES AND BOARDING AND LANDING-STATIONS.

Power to appoint Ports, Wharves, Custom-houses, warehouses and boarding and landing-stations.

11. 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, and for the landing or shipping of particular classes of goods;

(*d*) declare the limits of any such Wharf;

(*e*) alter the name of any such Port or Wharf.

Every such Port, except Aden, shall be a Customs-port within the meaning of this Act.

The Local Government may also from time to time in like manner declare

(*f*) places to be Ports for the carrying on of coasting trade with Customs-ports, or with any specified Customs-ports, and for no other purpose;

(*g*) what shall, for the purposes of this Act, be deemed to be a Custom-house, and the limits thereof.

Power to declare that an Indian Port not in British India shall be regarded as a Customs-port for certain purposes.

12. The Governor General in Council may from time to time declare, by notification in the *Gazette of India*, that any Foreign Port shall, with such limitations and on such conditions (if any) as he thinks fit, be a Customs-port for the purposes of this Act, in so far as the same is capable of being applied to such Port.

Power to declare Warehousing Ports.

13. The Local Government may from time to time declare, by notification in the official Gazette, that any Customs-port shall be a Warehousing Port for the purposes of this Act.

Appointment of public Warehouses.

14. At any Warehousing Port, the Chief Customs-Authority may from time to time appoint public Warehouses wherein dutiable goods may be deposited without payment of duty on the first importation thereof.

Power to license private warehouses.

15. At any Warehousing Port, the Chief Customs-Officer may from time to time license private warehouses wherein dutiable goods may be deposited without payment of duty on the first importation thereof.

Every license for a private warehouse so granted may, unless it be otherwise provided in the license, be revoked after one month's notice by the Chief Customs-Officer, and may be cancelled on conviction of the licensee of any offence under this Act relating to warehouses.

Revocation of license.

Every application for a license for a private warehouse shall be in writing, and shall be drawn up in such 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.

Stations for Customs-officers to board and also land from ship.

16. 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, unless separate provision therefor has been made under the Indian Ports Act, 1875, direct at what particular place in any such Port vessels, not brought into Port by pilots, shall be required to anchor or moor.

CHAPTER IV.

PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

Prohibitions and restrictions.

17. 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 a notice in writing that such copyright subsists, and a statement of the date on which it will expire:

(*b*) counterfeit coin:

(*c*) any indecent or obscene book, pamphlet, paper, drawing, painting, representation, figure or article:

(*d*) articles of foreign manufacture bearing any names, brands or marks being, or purporting to be, the names, brands or marks of manufacturers resident in the United Kingdom or British India.

Importation without license of arms and ammunition prohibited.

18. The importation into British India of arms or ammunition, except under a license from the Governor General in Council, or from some officer authorized in that behalf by the said Governor General in Council, or otherwise in accordance with any law for the time being in force, is prohibited.

Proviso.

Nothing in this section shall apply to rifles, guns, pistols, 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.

19. 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.

20. It shall be lawful to import into, or to export from, any place declared under section 11 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 by any notification of the Governor General in Council, for the time being in force.

CHAPTER V.

LEVY OF, AND EXEMPTION FROM, CUSTOMS-DUTIES.

Import-duties.

21. Customs-duties shall be levied on such goods imported by sea into any Customs-port from any Foreign Port, at such rates, and with such exemptions, as may be prescribed by any law for the time being in force.

Export-duties.

22. Customs-duties shall be levied on such goods exported by sea from any Customs-port to any Foreign Port, 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 Customs-port to another.

23. No Customs-duties shall be levied on goods carried by sea from any Customs-port to any other Customs-port:

Proviso.

Provided that nothing in this section shall apply

to opium, salt or spirits; or

to goods brought from any Foreign Port 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 fix values of dutiable goods.

24. 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 tariff-value of any goods exported or imported by sea on which Customs-duties are by law imposed.

Power to exempt from Customs-duties.

25. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt any goods imported into, or exported from, British India, or into or from any specified Port or place therein, from the whole or any part of the Customs-duties leviable thereon under any law for the time being in force.

Power to authorize, in special cases, exemption from payment of duty.

The Chief Customs-Authority may, by special order in each case, exempt from the payment of duty, under stated circumstances of an exceptional nature, any goods on which Customs-duties are leviable by any law for the time being in force.

Baggage in actual use.

26. The Customs-collector may, subject to any general rules relating to the landing and shipping of passengers' baggage and the passing of the same through the Custom-house, which may be made under section 7, pass free of duty any baggage in actual use, and for this purpose may determine, subject to any such rules, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

Re-imported articles of country-produce dutiable in certain cases.

27. If goods produced or manufactured in British India be imported into any Customs-port from any Foreign Port, such goods shall be liable to all the duties, conditions and restrictions, if any, to which goods of the like kind and value not so produced or manufactured 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 Customs-collector that the property in such goods has continued in the person by whom or on whose account, they were exported, the goods may be admitted without payment of duty.

Goods imported, for which any drawback of excise has been received on exportation, shall be subjected to payment of duty, unless the Chief Customs-Authority in any particular case otherwise directs by special order.

Goods derelict and wreck dutiable in certain cases.

28. All goods derelict, jetsam, flotsam and wreck, brought or coming into any Customs-port, shall at all times be subject to the same duties, if any, to which goods of the like kind are subject on importation at such Port, unless it be shown to the satisfaction of the Customs-collector, that such goods are the produce or manufacture of any place, from which they are entitled to be admitted duty-free.

Duty on opium re-exported by sea.

29. Opium imported by sea into any Customs-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.

Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported duty-free on certain conditions.

30. Provisions and other ship's stores warehoused at the time of importation may be exported without payment of duty for use on board of any vessel proceeding directly to a Foreign Port, whether such Port be or be not the Port of ultimate destination.

Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port, may also be exported free of duty, whether of customs or excise, in such quantities as the Customs-collector 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 so shipped on any vessel not going to a Foreign Port, or going on a voyage of less than thirty days' probable duration.

Transhipment.

Power to permit transhipment without payment of duty.

31. In the Ports of Calcutta, Madras, Bombay, Kárwár, Karáchi, Aden, Rangoon, Maulmain, Akyab, Chittagong, and such other Customs-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 Customs-Officer may, on application of the owner of any goods imported into such Port, grant leave to tranship the same without payment of duty, if any be leviable, 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.

In any Customs-port other than a Port in which the preceding clause may from time to time be in force, the Customs-collector may, on

application of such owner, grant leave for transhipment without payment of duty, if any be leviable, at such Port; provided that, where the goods so transhipped are dutiable, and are to be removed to some other Customs-port, the owner 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 such Customs-collector directs:

Proviso.

Provided that such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to some other Customs or Foreign Port.

Rules regulating exercise of power, and transhipment.

32. The power conferred by section 31 shall be exercised, and the transhipment shall be performed, subject to such rules as may from time to time be made by the Local Government.

Entry and warehousing, on arrival, of goods transhipped under section 31, clause 2.

33. All goods transhipped under the second clause of section 31 for removal to a Customs-port shall thereupon be treated in all respects as warehoused goods, and 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, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last-mentioned goods:

Proviso.

Provided that, if on the arrival of the said goods at such Port, the owner desires forthwith to export the same by sea to some Foreign Port, or to pay duty thereon for home-consumption, without actually warehousing them, the Customs-collector at such Port may, after all the formalities of entering and examining such goods for re-warehousing have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home-consumption, upon payment of the duty thereon, in like manner as if such goods had been actually warehoused. All goods so exported, or on which duty has been so paid, shall be deemed to have been duly cleared from the warehouse.

Transhipment of stores from one vessel to another of same owner without payment of duty.

34. If two or more vessels belonging wholly or in greater part to the same owner be at any Customs-port at the same time, any provisions and other ship's stores in use or ordinarily shipped for use on board may, at the discretion of the Customs-collector, be transhipped from one such vessel to any other such vessel without payment of import-duty.

Officer of Customs to superintend transhipment.

35. An officer of Customs shall, in every case, be deputed to superintend the removal of transhipped goods from vessel to vessel.

Levy of transhipment-fee.

36. 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 rules as the Local Government, with the previous sanction of the Governor General in Council, may from time to time make by notification in the official Gazette.

Power to prohibit transhipment.

37. The Governor General in Council may from time to time, by notification 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.

Miscellaneous Provisions.

Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.

38. On the importation into, or exportation from, any Customs-port of any goods, whether liable to duty or not, the owner of such goods shall, in his bill of entry or shipping-bill, state their real value to the best of his knowledge and belief, and shall subscribe a declaration of the truth of such value at the foot of such bill.

In case of doubt, the Customs-collector may require any such owner or any other person in possession of any invoice, broker's note, policy of insurance or other document, whereby the real 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:

Provided that, if the owner makes a declaration before the Customs-collector to the effect that he is unable, from want of full information, to state the real value or contents of any case, package or parcel of goods, then the Customs-collector shall permit him, previous to the entry thereof (1) to open such case, package or parcel, and examine the contents in presence of an officer of Customs, or (2) to deposit such case, package or parcel in a public warehouse, pending production of such information.

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.

For the purposes of this section the real value shall be deemed to be—

(*a*) 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: or,

(*b*) where such price is not ascertainable, the estimated cost at which goods of the like kind and quality could be laid down at such place.

Nothing in this section applies to opium, salt or spirits.

Under-valued goods how dealt with.

39. 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 owner of the goods of their detention, and of the value thereof as estimated by him; and the Customs-collector 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 payment of duty charged according to the entry of such owner, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Customs-collector shall cause the full amount stated in the bill as their real value to be paid to the owner 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, or some mercantile newspaper circulating in the place.

If the proceeds arising from such sale shall exceed the sum paid to the owner, 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 or error, from permitting the owner of 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 39 for use of Government.

40. When goods are retained under section 39 for the use of Government, the duties payable thereon shall in no case be levied from the owner.

Claims to abatement of duty on account of damage how to be treated.

41. No claim for any abatement or refund of duty on account of damage alleged to have been sustained before delivery of the bill of 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 Customs-collector appoints for the purpose.

Disposal of damaged goods and levy of duty thereon.

42. 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 local newspaper, be sold by public auction at such time (within thirty days from the date of delivery of the bill of entry), and at such place, as the Customs-collector appoints.

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 have 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.

Date of importation how determined.

43. 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 is necessary to determine the exact date on which an importation of goods had effect,

such date shall be that on which the goods were actually entered for home-consumption at the Custom-house.

For the purposes of this section goods shall be deemed to be entered when the bill of entry thereof is delivered to the Customs-collector.

Date of exportation how determined.

44. If, in like manner, it is necessary to determine the exact date on which an exportation of goods had effect, such date shall 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.

45. 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 Madras, contracts with B, a resident there, to procure and deliver to him within one year a thousand gallons of champagne at Rs. 25 per gallon, duty paid. Subsequently, and before the contract is performed, the duty is raised from Rs. 1-8 to Rs. 2-8 per gallon. A is entitled to be paid at Rs. 26 per gallon instead of Rs. 25.

(*c*). 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 and 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.

46. 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 was 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. Transit shall be deemed to have commenced on the grant of port-clearance.

Payment of duties short-levied or erroneously refunded.

47. When Customs-duties or charges have been short-levied through inadvertence, error or misconstruction on the part of the officers of Customs,

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 three months from the date of the first assessment or making of the refund;

and the Customs-collector may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless application made within three months.

48. No Customs-duties or charges which have been paid, and of which repayment, wholly or in part, is claimed in consequence of the same having been paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within three months from the date of such payment.

Dutiable goods may be passed on security for duty.

49. No dutiable goods shall be passed for home-consumption unless the owner previously either pays the customs-duties leviable thereon, or furnishes security, to the satisfaction of the Customs-collector, for the payment of the same.

CHAPTER VI.

DRAWBACK.

Amount of drawback allowable on re-export.

50. Upon the re-export by sea to any Foreign Port, of any goods, except salt or opium, capable of being easily identified, imported by sea into any Customs-port from any Foreign Port, and upon which duties of Customs have been paid on importation, seven-eighths of such duty shall, except as otherwise provided in this chapter, be repaid as drawback:

Conditions for grant of drawback.

Provided that, in every such case, the goods be identified to the satisfaction of the Customs-collector at such Customs-port, and that the re-export be made within two years from the date of importation, as shown by the records of the Custom-house, or within such extended term as the Chief Customs-Authority, on sufficient cause being shown, in any case determines.

Drawback to be allowed on goods exported to Customs-port and thence to Foreign Port.

Drawback shall be allowed upon goods which, after having been charged with duty at one Customs-port and thence exported to another, are re-exported by sea to a Foreign Port:

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.

Drawback on exportation of spirit.

51. 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.

Drawback of duties on wine and spirits allowed for officers of Navy.

52. A drawback of the whole of the Customs-duties shall be allowed on wine and spirits 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 and spirits have been warehoused without payment of duty on the first entry thereof.

The quantity of wine and spirits on which drawback may be so allowed in any one year for the use of such officers shall not exceed the quantities hereinafter allowed for each such officer respectively; 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 or spirits for drawback to declare name and rank of officer claiming same.

53. Every person clearing and claiming drawback for wine or spirits, as provided in section 52, shall state in the entry the name of the officer for whose use such wine or spirits 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 and spirits shall be delivered into the charge of the officers of Customs deputed on this behalf 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 and spirits into his charge, and any such officer of Customs has certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine or spirits from one Naval officer to another, &c.

54. The Customs-collector may permit the transfer of any such wine or spirits from one Naval officer to another Naval officer on board of the same, or of any other such vessel, as part of his authorized quantity;

or may permit the transhipment of any such wine or spirits from one vessel to another for the use of the same Naval officer;

or the re-landing and warehousing of any such wine or spirits for future re-shipment.

The Customs-collector may also receive back the duties for any such wine or spirits, and allow the same to be cleared for home-consumption.

Provisions and stores for Her Majesty's Navy exempt from duty.

55. Provisions and other ship's stores for the use of Her Majesty's Navy may, in like manner, be transferred, transhipped or relanded and warehoused, 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 an 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.

Privilege extends to Indian Marine and Marine-survey.

56. Sections 52, 53 and 54 apply to officers of Her Majesty's Indian Marine and Marine-survey on board of any of the ships of such Marine or Survey proceeding to any port out of India, and section 55 applies to provisions and stores for the use of such Marine or Survey.

Governor General in Council may declare what goods are identifiable, and may prohibit drawback in case of specified Foreign Port.

57. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*a*) declare what goods shall, for the purpose of this chapter, be deemed to be capable of being easily identified;

(*b*) prohibit repayment as drawback upon the re-exportation of goods to any specified Foreign Port.

No drawback to be allowed in certain cases.

58. No drawback shall be allowed—

(*a*) upon goods not included in the export-manifest, or

(*b*) upon goods exported from one Customs-port to another, or

(*c*) where the goods to be exported are of less value than the amount of drawback claimed, or

(*d*) where the claim is for drawback amounting to less then ten rupees, and the Customs-collector thinks fit to reject it.

Time to claim and demand payment of drawback.

59. No drawback shall be allowed upon any goods re-exported from any Customs-port unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within six months 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.

Declaration to be made by parties claiming drawback.

60. 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.

CHAPTER VII.

ARRIVAL AND DEPARTURE OF VESSELS.

Power to fix places beyond which inward-bound vessels are not to proceed until manifest delivered.

61. The Local Government may, by notification in the official Gazette, fix a place in any river or Port, beyond which no vessel, whether laden or in ballast, arriving from any Foreign Port, shall pass until the Master thereof has delivered to the Pilot, officer of Customs or other person duly authorized to receive the same, a manifest as described in section 63.

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 remains outside or below the place so fixed, such Master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver such manifest to the Pilot, officer of Customs or other person authorized to receive the same.

Delivery of manifest where no place has been so fixed.

62. If any vessel, coming from any Foreign Port, arrives at any Customs-port in which a place has not been so fixed, the Master of such vessel shall, within twenty-four hours after anchoring, deliver a manifest to the Pilot, officer of Customs, or other person authorized to receive the same.

Description of manifest.

63. Every manifest shall be signed by the Master, and shall contain a true specification of all goods imported in such vessel, comprising such particulars, and made out in such form, as the Chief Customs-Authority may from time to time direct.

Amendment of errors in manifest.

The Customs-collector may permit the Master 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 be discretionary with such Customs-collector; 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.

Agent may deliver manifest.

64. Nothing contained in section 61, 62 or 63 shall prevent the delivery of the manifest, previous to the arrival of the vessel, by an agent duly appointed and approved, as defined in section 3, clause (*h*), of this Act.

Duty of person receiving manifest.

65. The Pilot, officer or other person so receiving the manifest shall countersign the same and enter thereon such particulars as the 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.

66. No vessel arriving in any Customs-port from any Foreign Port, 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 Customs-collector, and an order has been given thereon by such officer for the discharge of the cargo.

The Customs-collector 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 a Customs-collector 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.

67. The Master of every vessel arriving from any Foreign Port shall, at the time of applying for entry inwards at any Customs-port, deliver to the Customs-collector, 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 Customs-collector.

68. No vessel, whether laden, partially laden or in ballast, shall depart from any Customs-port until a port-clearance has been granted by the Customs-collector or other officer duly authorized to grant the same.

No vessel to depart without 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.

69. 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.

70. The Master of every vessel intending to leave any Customs-port shall, at the time of applying for port-clearance, deliver to the Customs-collector a manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs-Authority, containing a 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 so deliver such certificates as the Customs-collector acting under the general instructions of such Chief Customs-Authority, requires.

The Customs-collector 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 Customs-collector 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.

71. The Customs-collector may refuse port-clearance to any vessel until

Port-clearance may be refused unless certain conditions are fulfilled.

(*a*) the required manifest and certificates are produced;

(*b*) all Port-dues and other charges and penalties due by such vessel, or by the owner or Master thereof, have been duly paid, or their payment secured by such guarantee, or by a deposit at such rate as such Customs-collector directs;

(*c*) a bond and security for the clearance of the import manifest within a reasonable period have been given by a duly appointed and accepted agent for the Master, the amount of such security and the length of such period being fixed in each case by such Customs-collector.

CHAPTER VIII.

GENERAL PROVISIONS AFFECTING VESSELS IN PORT, &c.

72. The Customs-collector at any Customs-port may at any time depute at his discretion one or more officers of Customs to board any vessel arriving at such Port.

Power to depute officer of Customs to board ships.

Every officer of Customs so sent shall remain on board of such vessel by day and by night unless or until the Customs-collector shall otherwise order:

Provided that the Customs-collector may, on such conditions as he sees fit to impose, permit the discharge of cargo without the presence of an officer of Customs.

Proviso.

73. Whenever an officer of Customs is so deputed on board of any vessel, the Master of such vessel shall be bound to receive on board such officer, and 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.

Servant to be received with officer.

Accommodation of officer and servant.

74. Every officer of Customs so deputed 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.

Officers of Customs to have free access to every part of ship, and may seal and secure goods.

If any box, place or closed receptacle in any such vessel be locked, and the key be withheld, such officer shall report the same to the Customs-collector, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search.

Customs-collector may authorize search and opening of locks.

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 open the same.

75. A period of twenty working days, or such further period as the Customs-collector directs, shall be allowed for the discharge of import-cargo and the shipment of export-cargo on board of every vessel not exceeding six hundred tons.

Period allowed for discharge and shipment of 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 allowed number of working days, or for the services of several such officers (if available) for respective periods not exceeding in the aggregate such allowed number of working days.

If the period occupied in the discharge and shipment of cargo be in excess of twenty working days, together with the additional period (if any) allowed under the second clause of this section, the vessel shall be charged with the expense of the officer of Customs at a rate not

Consequence of exceeding same.

exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

In calculating any period allowed, or any charge made, under this section, due deduction shall 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, is laid up by the withdrawal of the officer of Customs upon application from the Master.

Allowance for period during which vessel is laid up.

76. Except with the written permission of the Customs-collector, no goods, other than passengers' baggage, shall be discharged from any vessel arriving at any Customs-port, or be shipped or water-borne for exportation or for carriage coastwise—

Goods not to be landed, shipped, or water-borne on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.

(*a*) on any Sunday or on any holiday or day on which the discharge of cargo is prohibited by the Chief Customs-Authority;

(*b*) on any day, except between such hours as such Authority from time to time appoints by notification in the official Gazette;

(*c*) without the presence or authority of an officer of Customs:

nor, in the case of goods so shipped or water-borne,

(*d*) from any place in any such Port except a wharf duly appointed for such purpose;

(*e*) before due entry outwards of the exporting vessel and of the goods;

(*f*) before such goods shall have been duly cleared for shipment.

Nothing in this section shall prevent the Chief Customs-Authority from giving, by notification in the official Gazette, general permission for goods to be so shipped or water-borne in any Customs-port from all or any places not duly appointed as wharves, and without the presence or authority of an officer of Customs.

77. When any goods are water-borne for the purpose of being landed from any vessel and warehoused or passed for importation, or 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 for goods to be landed 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, and shall be delivered on arrival to any officer of Customs authorized to receive the same.

Each boat-note for goods to be shipped 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.

The officer of Customs who receives any boat-note of goods landed, and the officer of Customs, Master, or other officer as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the Chief Customs-Authority may from time to time direct.

The Local Government may from time to time suspend the operation of this section in any Customs-port or part thereof, and may cancel such suspension.

78. All goods water-borne for the purpose of being landed and warehoused, or passed for importation, or of being shipped for exportation, shall be so landed or shipped without any unnecessary delay.

Goods water-borne to be forthwith landed or shipped.

79. No goods discharged from any vessel under the authority of an officer of Customs shall be landed, except at a wharf or other place appointed for the landing of such goods.

Goods not to be landed elsewhere than at appointed wharf or place.

No such goods discharged into or loaded in any boat for the purpose of being landed or shipped shall be subsequently transhipped into any other boat without the permission of an officer of Customs.

80. The Local Government may declare with regard to any Customs-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.

Power to prohibit plying of unlicensed cargo-boats.

In any Port with regard to which such notification has been issued, the Chief Officer of Customs or other officer whom the Local Government appoints in this behalf, 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 by notification in the official Gazette.

Issue of licenses.

81. The Customs-collector, 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-collector may require goods to be weighed or measured on board before landing.

82. Any officer of Customs may open any package, and fully examine any goods brought by sea, or shipped or brought for shipment at any Customs-port.

Customs-officer may open package and examine goods shipped.

83. The Customs-collector 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.

Customs-collector may take samples of goods.

Every such sample shall, if the owner so desire, and if it be possible, be restored to him; otherwise it shall be disposed of and accounted for to him as the Customs-collector directs.

84. 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, marking and numbering of goods, where such operations are necessary or permitted,

Owner to pay expense incidental to compliance with Custom-house rules.

and the removing of goods to, and the placing of them in, the proper place of deposit,

shall be performed by or at the expense of the owner of such goods.

Fee for landing baggage.

When any goods, 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.

No compensation for loss or injury except on proof of neglect or wilful act.

85. No owner 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 of any officer of Customs, unless it be proved that such loss or injury was occasioned by the neglect or wilful act of an officer of Customs.

Rates of wharfage-fees.

86. The Chief Customs-Authority may from time to time fix the period after the expiration of which goods left on any Custom-house wharf or other authorized landing place, or part of the Custom-house premises, shall be subject to payment of fees, and the amount of such fees.

Duplicates may be granted and amendments made on payment of fee.

87. A duplicate of any certificate, manifest, bill or other Custom-house document may, on payment of a fee not exceeding ten rupees, be furnished, at the discretion of the Customs-collector, 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.

Owner to deliver duplicate of bill of entry or shipping-bill, if required.

88. Upon the entry or clearance of any goods for importation or exportation, the owner shall, if the Customs-collector so requires, deliver to such officer a duplicate of the bill of entry or shipping-bill thereof.

Agents must be duly authorized.

89. 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 Customs-collector.

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 Customs-Authority, whose decision thereon shall be final.

Agent to produce authority if required.

90. When any person makes application to any officer of Customs for permission to transact any business with him 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 such permission.

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 such clerk, servant or agent to the Customs-collector as empowered to transact his or their business, and deposits with such officer an authority in writing duly signed, authorising such clerk, servant or agent to receive all drawbacks, refunds and other moneys or transact other business on behalf of such person or firm.

CHAPTER IX.

IMPORTATION OR DISCHARGE.

Discharge of cargo may commence on receipt of due permission.

91. Whenever an order or a special pass, permitting any vessel which has arrived in any Customs-port from any Foreign Port to break bulk, has been duly issued under section 66, the discharge of the cargo of such vessel may be proceeded with.

Portion of import-cargo intended for another Port, ship's stores, &c., may be kept on board free of duty.

92. Any portion of an import-cargo intended for another Port, or any ship's stores intended for consumption in Port or on the home-ward voyage, may be declared by the Master of any vessel as not to be landed, and may thereupon, with the special sanction of the Customs-collector, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of duty:

Provided that all such cargo and ship's stores, excepting any ship's stores which may be duly transferred to another ship under section 54, 54 or 55, 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.

The Customs-collector, or any officer deputed by him under section 72, may seal up, or otherwise secure, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

Goods not to leave ship unless entered in manifest.

93. No goods shall be allowed to leave any vessel, unless they be duly entered in the original manifest of such vessel, or in an amended or supplementary manifest duly received under section 63.

Procedure in respect of goods not landed within time allowed.

94. If the owner of any goods (except such as have been declared by the Master as not to be landed), 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 longer period as the bill of lading of such vessel specifies; or

Effect of not discharging cargo in any less period specified in bill of lading.

if any period less 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 owner of such cargo, or part thereof, does not land the same within such specified period; or

if the cargo of any vessel, with the exception of only a small quantity of goods, has been discharged previously to the expiration of the period so appointed or specified, as the case may be,—

the Master of such vessel, or a duly authorized officer of Customs, on his application, may then carry such goods to the Custom-house.

The Customs-collector shall thereupon take charge of and grant receipts for such goods;

and if notice in writing has been given by the Master 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 receives notice in writing that the said charges are paid.

Goods may be landed at any time after arrival, with consent.

95. At any time after the arrival of any vessel, the Customs-collector 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 this Act for the landing of such package or parcel.

Notice regarding unclaimed packages.

96. If any package or parcel carried to the Custom-house under section 95 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 94, 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.

97. If the duties chargeable upon any goods carried to the Custom-house under section 94 or 95, 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 owner of the goods, 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 Customs-collector 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.

Immediate discharge permitted in certain cases.

98. Nothing in sections 93 to 97 inclusive shall prevent the Customs-collector in any Customs-port to which the Local Government, by notification in the official Gazette, declares this section to be applicable, from permitting the Master of any vessel immediately on receipt, under section 66, of an order or special pass, to discharge the cargo of such vessel or any portion thereof—

(*a*) at the Custom-house or any specified landing-place or wharf;

(*b*) at any landing-place or wharf belonging to any Port Commissioners, Port Trust or other duly constituted and responsible public body or company;

(*c*) into the custody of responsible and authorized agents of the ship, if willing to receive the same, for the purpose of landing the same forthwith at the Custom-house or any such landing-place or wharf.

The Customs-collector shall take charge of all goods or cargo so landed, and otherwise proceed in relation thereto as provided in the said sections.

Any such ship's agent so receiving any goods or cargo shall be responsible to pay all claims for damage or short delivery which may be established by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like claimed by any agent or consignee previously constituted by the owner.

Goods not cleared within two months from date of landing to be sold.

99. If any goods be not cleared for home-consumption or for warehouse within two months from the date of landing thereof, or within such further period as the Customs-collector directs, such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall be applied to the payment of duties and other charges to which the same were liable.

Disposal of overplus.

The overplus, if any, shall be paid to the owner of the goods 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.

Entry for home-consumption.

100. The owner of any dutiable goods intended to be delivered for home-consumption on the landing thereof from the importing ship, shall make entry of such goods by delivering to the Customs-collector 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.

The delivery of such bill shall be deemed to have taken place on the date of the first presentation of such bill to an officer of customs duly authorized to receive the same.

The passing of such bill by an officer of customs duly authorized in that behalf shall be sufficient authority for the removal of the goods by the owner.

CHAPTER X.

WAREHOUSING.

101. 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 warehouse appointed or licensed under this Act.

Deposit of goods in warehouse without payment of duty.

102. Every public warehouse appointed under section 14 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 105 and 117 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.

103. 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.

Chief Customs-Authority to decide where any 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.

104. Every application for the admission of goods into any warehouse shall be in writing, and shall be drawn up in such 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.

105. 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 unless assessed for Customs-duty.

Nothing in this section shall

(*a*) preclude the temporary deposit of goods in a public warehouse under section 38; or

Saving of re-assessment of warehoused goods on clearance for home-consumption.

(*b*) 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 43.

106. When an application has been made for the warehousing of any goods, and when such goods have been assessed for duty as directed in section 105, the owner shall execute a bond for the amount of such duty in the Form marked A hereto annexed, or when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-Authority.

Bond for duty on goods sought to be warehoused. Form of bond.

Every such bond shall relate to the duties chargeable on the cargo or portion of the cargo of one vessel only.

107. 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 provisions of this Act in respect to the same.

Every such bond shall, unless the Chief Officer of Customs in any case deems a fresh bond to be necessary, continue in force, notwithstanding their subsequent removal to another warehouse or warehousing port.

108. When any such bond has been executed, in respect of any goods, such goods shall be allowed to be warehoused for a period not exceeding three years, without being liable to import-duty:

Period for which goods may remain warehoused under bond.

Provided that if the license for any private warehouse be withdrawn, every bond executed for duty chargeable on goods deposited in such 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 Customs-collector has given notice of such withdrawal, unless the owner of the goods has in the interval obtained permission for their removal to another warehouse.

When bond for duty on goods in private warehouse may be sued on.

109. When the provisions of sections 104 to 107 (inclusive) 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.

A pass shall be sent with the goods specifying 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.

On receipt of the goods into the warehouse, the pass shall be examined by the warehouse-keeper, and shall be returned to the Customs-collector. If the pass be found to be correct, the warehouse-keeper shall certify to that effect thereon, and the warehousing of such goods shall be deemed to have been completed.

If the quantity or value of any goods has been erroneously stated on importation, the error may be rectified at any time before the warehousing of the goods is completed.

110. No package, butt, cask or hogshead shall be admitted into any 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.

111. All goods shall be warehoused in the packages, butts, casks or hogsheads in which they have been imported, except as provided in section 116.

Goods how warehoused.

112. Whenever 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 B 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.

Nothing in this section shall, if the Local Government so direct, apply to salt.

113. The Customs-collector 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.

114. The Customs-collector may at any time by order in writing direct any goods or packages lodged in any warehouse to be opened, weighed or otherwise examined; 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 the permission of the Customs-collector; and when any such goods are opened with such permission, the packages shall, if he thinks fit, be again sealed or marked as before.

115. Any owner of goods lodged in a warehouse under this Act, 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, upon application for the purpose being made in writing to the Customs-collector, be deputed to accompany such owner.

Access of owners to warehoused goods.

When an officer of Customs is specially employed to accompany such owner, a sum sufficient to meet the expense thereby incurred shall be paid by such owner to the Customs-collector, and may be required by the Customs-collector to be paid in advance.

116. With the sanction of the Customs-collector, and after such notice given, and under such rules and conditions as the Chief Customs-Authority from time to time prescribes, any owner of goods may, either before or after warehousing,—

Goods in warehouse may be sorted, repacked, &c., by owner, &c.

(*a*) sort, separate, pack and repack any goods, and 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 Customs-collector permits);

(*b*) fill up any casks of wine, spirits or beer from any casks of the same secured in the same warehouse;

(*c*) mix any wines of the same sort secured in the same warehouse, erasing from the cask all import-brands, unless the whole of the wine so mixed be of the same brand;

(*d*) bottle off wine or spirits from any casks;

(*e*) take such samples of goods as may be allowed by the Customs-collector with or without entry, and with or without payment of duty, except such as 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 Customs-collector may, at the request of the owner of such goods, 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.

117. If any goods warehoused, or entered to be warehoused, or 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 lost or destroyed in a private warehouse, notice thereof be given to the Customs-collector within forty-eight hours after the discovery of such loss or destruction.

If goods lodged in a warehouse receive damage through unavoidable accident, they shall be re-assessed 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.

118. The import-duty on all goods warehoused or to be warehoused shall, subject to section 105, clause 3, be assessed 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.

Provided that, if it appear at the time of clearing any wines, spirits, beer or salt from any warehouse that a deficiency not otherwise accounted for 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:

Proviso as to wines, spirits, beer or salt.

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.

119. 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

Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.

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 purpose of exemption from the penalty to which the licensee of such warehouse would otherwise be liable under section 164, No. 50, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in section 118.

Public warehouse-keeper or licensee of private warehouse answerable for weight or gauge.

120. The warehouse-keeper in respect of goods lodged in a public warehouse, and the licensee 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 sections 118 and 119.

Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.

No owner of goods shall be entitled to claim from the Customs-collector, 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 remove goods from one warehouse to another in same Port.

121. Any owner of goods warehoused under this Act, may, with the permission of the Chief Customs-Officer, and on such conditions and after giving such security (if any) as such officer directs, remove goods from one warehouse to another warehouse in the same Port.

When any person desires so to remove any goods, he shall make application in such form as the Chief Customs-Authority from time to time prescribes.

Bonded goods may be removed from one port to another.

122. Goods warehoused 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.

Procedure.

When any owner desires so to remove any goods, he shall apply to the Chief Customs-Officer, stating the particulars of the goods to be removed, and the name of the Port 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.

Officers at Port of removal to transmit account of goods to officers at Port of destination.

123. When permission is granted for the removal of any goods from one warehousing Port to another under section 122, an account containing the particulars thereof shall be transmitted by the proper officer of the Port of removal to the proper officer of the Port of destination; and the owner requiring the removal shall

Owner to execute bond for due arrival, &c.

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 re-warehousing thereof at the Port of destination within such time as the Chief Customs-Authority directs.

Such bond may be taken by the proper officer, either at the Port of removal or at the Port of destination, as best suits the residence or convenience of the owner.

If such bond is taken at the Port of destination, a certificate thereof, signed by the proper officer of such Port, shall, at the time of the entering of such goods, be produced to the proper officer at the Port 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 of destination within the time allowed for such removal, or are otherwise accounted for to the satisfaction of such officer; nor until the full duty due upon any deficiency of such goods, not so accounted for, has been paid.

Remover may enter into a general bond.

124. 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, and for the due arrival and re-warehousing of such goods at the Port of destination within such time as such Authority directs.

Goods on arrival at Port of destination to be subject to same laws as goods on first importation.

125. Upon the arrival of warehoused goods at the Port 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 are applicable, which regulate the entry and warehousing of such last-mentioned goods.

Removal of goods to be noted on the bond, with particulars.

126. When any warehoused goods are removed from any warehouse, the Customs-collector 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 paid (if any).

Goods not to be removed from warehouse, except after application to Customs-collector.

127. No goods shall be removed from any warehouse, except after application to the Customs-collector for permission to pass the goods

(*a*) for exportation by sea to some Foreign Port; or

(*b*) for home-consumption, in like manner as is prescribed by section 98 for goods entered for home-consumption on the landing thereof; or

(*c*) for removal to another warehouse, as provided in sections 121 to 124 inclusive;

and after grant of such permission.

Form of application for removal of goods.

128. Application to remove goods from any warehouse shall be made in such form as the Chief Customs-Authority from time to time prescribes.

Such application shall ordinarily be made to the Customs-collector twenty-four hours before it is intended so to remove such goods.

Twenty-four hours' notice to be given.

On goods being removed improperly or otherwise than for export, &c., full duty to be paid.

129. If any goods lodged in a warehouse are removed from the warehouse otherwise than for removal to another warehouse, as provided in sections 121 to 124, inclusive, or for exportation by sea to some Foreign Port;

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 Customs-collector shall thereupon demand, and the owner of such goods shall forthwith pay, the full amount of 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 121 to 124, inclusive, or for exportation by sea to some Foreign Port, no duty shall be then so demanded.

Procedure on failure to pay duty.

130. If any owner fails to pay on demand any duty or penalty that falls due on account of goods warehoused under this Act, the Customs-collector may forthwith either proceed upon the bond executed by such owner, or cause such portion as to him seems fit of the warehoused goods on account of which the duty or penalty is due, 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 owner), 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 owner 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 Customs-collector from proceeding against such goods in the manner above provided, for any Customs-duties or penalty due thereon.

Expenses of carriage, packing, &c., to be borne by owners.

131. The expenses of carriage, packing and stowage of goods on their reception into or removal from a warehouse shall, if paid by the Customs-collector or by the warehouse-keeper, be chargeable on the goods, and be defrayed by, and recoverable from, the owner, in like manner as Customs-duties.

Payment of rent and warehouse-dues.

132. If goods be lodged in a public warehouse, the owner shall further pay monthly, on receiving a bill or written demand for the same from the Customs-collector or other officer deputed by him in that behalf, the rent and warehouse-dues.

In case of failure, goods may be sold, &c.

If any such bill for rent or warehouse-dues be not discharged on demand, the Customs-collector may forthwith proceed to recover the amount in the manner provided in section 130, in the case of failure to pay duty.

A register of bonds to be kept.

133. A register shall be kept of all bonds entered into for Customs-duties on warehoused goods, and entry shall be made in such register of all particulars specified in section 126.

When bonds are to be cancelled and returned to obligee.

When the register shows that the entire quantity of the goods covered by any bond has been withdrawn from a warehouse, or otherwise duly accounted for, and when all charges and penalties which have been incurred on account of such goods have been paid, the Customs-collector shall cancel such bond as discharged in full, and deliver it, so cancelled, to the person who has executed or who is entitled to receive it.

Duty on warehoused goods to be settled within three years.

134. 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.

Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

135. 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.

CHAPTER XI.

EXPORTATION OR SHIPMENT, AND RE-LANDING.

Permission for entry outwards to be obtained before export-cargo is shipped.

136. 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 Customs-collector by the Master of such vessel, nor until an order has been given thereon by such officer for such entry or shipment of cargo.

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.

Exporter to deliver shipping-bill before shipping any goods.

137. Unless the Chief Customs-Authority shall, in the case of any Customs-port or wharf, or of any class of goods, otherwise direct by notification in the official Gazette, no goods, except

passengers' baggage, shall be shipped or water-borne to be shipped for exportation, until the owner has filled in and delivered to the Customs-collector, or other proper officer, a shipping-bill of such goods in such form as may from time to time be prescribed by the Chief Customs-Authority.

On entry outwards, bond to be given for shipping and landing.

138. Before any warehoused goods or goods subject to excise-duties, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the owner shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Customs-collector 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.

Additional charge on goods passed for shipment after port-clearance has been granted.

139. 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.

Notice of non-shipment or re-landing, and return of duty thereon.

140. If any goods mentioned in a shipping-bill be not shipped, or be shipped and afterwards re-landed, the owner shall give information of such short-shipment or re-landing to the officer in charge of the Custom-house 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. Upon an application being made to the Customs-collector, any 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: Provided that no such refund shall be allowed unless information has been given as above required.

Proviso.

Goods re-landed or transhipped from a vessel returning to Port, or putting into another Port.

141. 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 of goods in such vessel, if he desires to land or tranship the same or any portion thereof for re-export, may make application to the Customs-collector.

Such officer, if he grant the application, shall thereupon send an officer of Customs to watch the vessel, and to take charge of such goods during such re-landing or transhipment.

Such goods 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 they are lodged and remain under charge of an officer of Customs, in a place appointed by the Customs-collector until the time of re-export, or are transhipped direct under such charge.

All expenses attending such custody shall be borne by the owner.

Vessel returning to Port may enter and land goods under import-rules.

142. In either of the cases mentioned in section 141, the Master of the vessel or any owner of goods therein, may enter such vessel and land such goods under the rules for the importation of goods.

In every such case any export-duty levied shall be refunded to, and any amount paid in drawback shall be recovered from, such owner.

CHAPTER XII.

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 make rules prescribing the conditions on which spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of excise-duty.

The person so removing any such spirits shall execute a bond with one or more sureties, in the Form marked C hereto annexed, or, when such form is inapplicable or insufficient, in such other form as the said Authority from time to time prescribes, conditioned that duty shall be paid on any portion of such spirits not exported within four months from the date of the bond, or any portion thereof exported to a Port in British India not being a Customs-port, the landing and payment of Customs-duty in respect of which at the Port of destination is not proved 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 excise-duty 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 excise-duty paid on spirits manufactured in British India after the English method, and exported to any Foreign Port under the provisions of section 138, shall be allowed by the Customs-collector at the Port of exportation:

Provided that the exportation be made within one year from the date of payment of such excise-duty, 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 from one Customs-port to another, but such spirits may be exported under bond.

148. No drawback shall be allowed on spirits exported from any Customs-port to any other Customs-port.

But spirits manufactured in British India after the English method may, on the conditions and under the rules from time to time prescribed under section 138, be exported from any such Port to any other such Port, under bond for the excise-duty.

Every such bond shall be cancelled on the production by the owner 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 under bond from one Indian Port to another, how adjusted.

149. Spirits manufactured in British India after the English method and exported under bond for the excise-duty from any Customs-port to any other Customs-port, shall be chargeable at the Port of importation with Customs-duties 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 excise-duty, the bond to be executed by the person removing it shall be in the Form marked C hereto annexed, or, when such form is inapplicable or insufficient, in such other form as may from time to time be prescribed by the Chief Customs-Authority.

Spirits intended for exportation may be removed for local consumption.

151. Spirits brought to the Custom-house for exportation under bond for the excise-duty 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 in discharge 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 Customs-collector.

Power to make rules for ascertaining that imported spirit has been rendered unfit for human consumption.

153. The Local Government may from time to time make 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 Customs-duties leviable thereon are levied, and at the expense of the person importing it.

Decision where no rules, or their applicability disputed.

In the absence of any such rules, or if any dispute arises as to their applicability, the Chief Customs-Officer shall decide what spirit is subject only to the said *ad valorem* duty, and such decision shall be final.

CHAPTER XIII.

COASTING TRADE.

Application of Act to coasting vessels.

154. Nothing in chapters VII, IX, X, XI and XII of this Act affects coasting vessels:

Provided that the Governor General in Council may from time to time, by notification in the *Gazette of India*, declare coasting vessels to be affected by the whole, or any specified portions, of the said chapters, or not to be affected by any such portions of the remainder of this Act.

Power to regulate carriage of goods coastwise.

155. The Governor General in Council or the Local Government may from time to time make rules prescribing the conditions on which goods, or any specified class of goods, may be—

(*a*) carried in a coasting vessel, whether shipped at a Foreign Port or at a Customs-port to be so carried;

(*b*) shipped in a coasting vessel before all goods brought in such vessel from a Foreign Port have been unladen;

and may prohibit the conveyance of any specified class of goods generally, or to or between specified Ports.

Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.

156. Before any coasting vessel departs from the Port of lading, an account, with a duplicate thereof, in the Form marked D hereto annexed, with such additional particulars (if any) 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 Customs-collector.

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 require bond before port-clearance is granted.

157. The Customs-collector may, for sufficient reason, refuse port-clearance to any vessel declared to be bound to, or about to touch at, any Customs-port, unless the owner or Master gives a bond with sufficient security for the production to the Customs-collector 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.

Time for delivery of pass.

158. 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 Customs duly authorized to receive the same, and he shall note thereon the date of delivery.

Goods on coasting vessel, if excisable, not to be unladen without permission.

159. If any of the goods on board of any coasting vessel be subject to any excise-duty, they shall not be unladen without the permission of the proper officer of Excise.

Grant and revocation of general pass.

160. 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.

Such pass shall be valid throughout India, or for such Ports only as may be specified therein.

Any such general pass may be revoked by notice in writing under the hand of such authority, delivered to the Master or to the owner of such steam-vessel, or to any of the crew on board.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

161. 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.

162. The Governor General in Council or the Local Government may, from time to time, make rules for the guidance of the Masters of all other coasting vessels, as to the matters mentioned in section 161.

Power to board and examine any coasting vessel.

163. 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 Customs-collector may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection.

CHAPTER XIV.

OFFENCES AND PENALTIES.

Punishments for offences.

164. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively:

Offences.	Section of this Act to which offence has reference.	Penalties.
1.—Contravening any rule made by the Chief Customs Authority.	7	Penalty not exceeding five hundred rupees.
2.—If any goods be landed or shipped, 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,	11	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.
3.—If any person ship or land goods, or aid in the shipment or landing of goods, or knowingly keep or conceal, or knowingly permit or procure to be kept or concealed, any goods shipped or landed, or intended to be shipped or landed, contrary to the provisions of this Act; and if any person be found to have been on board of any vessel liable to confiscation under clause 2, 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,	11	such person shall be liable to a penalty not exceeding one thousand rupees.
4.—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 in British India where such vessel lawfully discharged her cargo,	11	such vessel shall be liable to confiscation.
5.—If any goods are 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; or if any goods are put, without such authority, out of any tug-steamer or pilot-vessel for the purpose of being put on board of any such outward-bound vessel; or if any goods on which drawback has been granted are put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being re-landed,	11	such goods shall be liable to confiscation, and the Master of such tug-steamer, pilot-vessel or sea-going vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
6—If any vessel arriving at, or departing from, any Customs-port from any Foreign Port fails, when so required under section 16, 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,	16	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
7.—If any vessel arriving from any Foreign Port 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 Conservator, obtained in accordance with the provisions of the Indian Ports Act, 1875, or other lawful authority, directly to some other place of mooring or unlading, or	16	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees, and the vessel, if not entered, shall not be allowed to enter until the penalty is paid.
if any small vessel be not anchored or moored in accordance with any direction of the Chief Customs-Authority under section 16,		
8.—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	19	such goods, together with any goods which shall be found packed with or used in concealing them, shall be liable to confiscation; and
if any attempt be made so to import or export any such goods; or		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.
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,		
9.—Contravening any rule regarding the process of transhipment made by the Local Government, or	32	Penalty not exceeding one thousand rupees.
any order relating to transhipment notified by the Governor General in Council,	37	
10.—If any person subscribes or attests any declaration of the real value of any goods upon an application to pass such goods through the Custom-house, not being the owner of such goods, or not having proper and sufficient authority from the owner,	38	such person shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
11.—If any wine, spirits or ship's stores be not laden on board of the ship for which they were intended, or be unladen from such ship without the permission of the proper officer of Customs,	52 to 56	such wine, spirits or ship's stores shall be liable to confiscation.
12.—If any goods be entered for drawback, which are of less value than the amount of the drawback claimed,	58	such goods shall be liable to confiscation.
13.—If any goods, on the entry of which for re-export drawback has been paid, are not duly exported to a Foreign Port, or are unshipped or relanded at any Customs-port (not having been duly relanded or discharged as short-shipped under the care of an officer of customs, or under section 140 or section 141),	60	such goods, together with any vessel used in so unshipping or relanding them, shall be liable to confiscation; and the Master of the vessel from which such goods are so unshipped or relanded, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such unshipping or relanding, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.
14.—If, in any river or Port wherein a place has been fixed under section 61 by the Local Government, the Master of any vessel arriving from a Foreign Port wilfully omits, before passing beyond such place, to deliver to the pilot, officer of customs, or other person duly authorized to receive the same, a manifest; or	61	such Master shall be liable to a penalty not exceeding one thousand rupees.
if the Master of any vessel so arriving which remains outside or below any such fixed place, wilfully omits, for the space of twenty-four hours after anchoring, so to deliver a manifest,		
15.—If, after any vessel arriving from any Foreign Port has entered any Customs-port in which a place has not been fixed under section 61, the Master of such vessel wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by that section,	62	ditto ditto.
16.—If the manifest delivered by any Master of a vessel under section 61, 62 or 70 be not signed by such Master and in the form and containing the particulars duly required under section 63, in so far as they are applicable to his ship, cargo and voyage; or	63 & 70	ditto ditto.
if any manifest so delivered does not contain a true specification of all goods imported in such vessel,		

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
17.—If any pilot, officer of Customs or other person authorized to receive a manifest from any Master of a vessel, refuses so to do, or fails to countersign the same or to enter thereon the particulars referred to in section 65,	65	such pilot, officer of Customs or other person shall be liable to a penalty not exceeding five hundred rupees.
18.—If bulk be broken in any vessel previous to the grant of an order or special pass by the Customs-collector, permitting bulk to be broken,	66	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
19.—If any bill of lading or copy required under section 67 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; 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 Customs-collector,	67	the Master of the vessel shall be liable to a penalty not exceeding one thousand rupees.
20.—If any Master of a vessel attempts to depart without a port-clearance,	68	such Master shall be liable to a penalty not exceeding five hundred rupees.
21.—If any vessel actually departs without a port-clearance,	68	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
22.—If any pilot takes charge of any vessel proceeding to sea, notwithstanding that the Master of such vessel does not produce a port-clearance,	69	such pilot, on conviction before a Magistrate, shall be liable to a penalty not exceeding one thousand rupees.
23.—If any Master of a vessel refuses to receive on board an officer of Customs deputed as provided in section 72,	72	such Master 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 such penalty is paid.
24.—If any Master of a vessel refuses to receive on board one servant of such officer, or to provide such officer and servant with suitable shelter and accommodation, and with a due allowance of fresh water, and with the means of cooking on board,	73	such Master shall, in each such case, be liable to a penalty not exceeding five hundred rupees.
25.—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; or	74 & 92	the Master of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
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,		
26.—If the Master of any vessel laid up under section 75 by the withdrawal of the officer of Customs shall, before application is made by him, 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,	75	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.
27.—If any Master of a vessel causes or suffers any goods to be discharged, shipped, or water-borne contrary to any of the provisions of section 76,	76	such Master shall be liable to a penalty not exceeding one thousand rupees; and all goods so discharged, shipped, or water-borne shall be liable to confiscation.
28.—If any goods water-borne for the purpose of being landed from any vessel, and warehoused or passed for importation, or of being shipped for exportation, be found without the boat-note required by section 77; or if any goods are found on board any boat in excess of the bote-note or Custom-house pass, whether such goods are intended to be landed from, or to be shipped on board of, any vessel,	77	such goods shall be liable to confiscation; and the person by whose authority the goods are being landed or shipped, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty leviable on the said goods.
29.—If any Master or officer of a vessel refuses to receive, or fails to sign, or to note the prescribed particulars upon, any boat-note, in accordance with section 77, or receiving the same fails to deliver it when required so to do by any officer of Customs authorized to make such requisition,	77	such Master or officer shall be liable to a penalty not exceeding five hundred rupees.
30.—If any goods water-borne for the purpose of being landed or shipped for importation, are not landed or shipped without unnecessary delay; or if the boat containing such goods be found out of the proper track between the vessel and the wharf or other proper place of landing or shipping, and such deviation be not accounted for to the satisfaction of the officer in charge of the Custom-house; or if any goods are landed or transhipped contrary to the provisions of section 79,	78 & 79	such goods, together with any vessel or boat employed in conveying them, shall be liable to confiscation; and the person by whose authority the goods are water-borne, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of the duty leviable on such goods.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
31.—If, after the issue of a notification under section 80 with regard to any Port, any goods are found within the limits of such Port on board of any boat not duly licensed and registered,	80	such goods, unless they are covered by a special permit from the officer in charge of the Custom-house, shall 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.
32.—If any owner of goods, upon the entry or clearance thereof, wilfully fails to deliver, if duly required, a duplicate of the bill of entry or shipping-bill thereof,	88	such owner shall be liable to a penalty not exceeding two hundred rupees.
33.—If any person, not being authorized under section 89, acts as an agent for the transaction of business as therein mentioned,	89	such person shall be liable to a penalty not exceeding five hundred rupees,
34.—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,	93	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.
35.—If any Master of a vessel discharges or suffers to be discharged any goods not duly entered in the manifest of such vessel,	93	such Master shall be liable to a penalty not exceeding one thousand rupees.
36.—If any goods are found concealed in any place, box or closed receptacle in any vessel, and are not duly accounted for to the satisfaction of the officer in charge of the Custom-house,	93	such goods shall be liable to confiscation.
37.—If any goods are found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained,	93	such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the chief officer of Customs directs.
38.—If, after any goods have been landed and before they have been passed through the Custom-house, the owner removes or attempts to remove them, with the intention of defrauding the revenue,	100	such goods shall be liable to confiscation; 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.
39.—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	100 & 38	such packages, together with the whole of the goods contained therein, shall be liable to confiscation, and

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
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,		any person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees.
40.—If, when goods are passed by tale or by package, any omission or misdescription thereof tending to injure the revenue be discovered,	100 & 109	the owner of such goods shall 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.
41.—If, without entry duly made, any goods are taken or passed out of any Custom-house or wharf,	100	the person so taking or passing such goods shall, in every such case, be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation.
42.—If any prohibited or dutiable goods are found, either before or after landing, concealed in any passenger's baggage,	100	such goods, together with the other contents of the package in which they are found, shall be liable to confiscation.
43.—If any goods entered to be warehoused 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,	109	such goods shall be liable to confiscation, and any person so carrying them shall be liable to a penalty not exceeding one thousand rupees.
44.—If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or withheld, or removed from any proper place of examination before they have been examined and certified by the proper officer,	109	such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.
45.—If any warehoused goods be not warehoused in accordance with section 110 or 111,	110 & 111	such goods shall be liable to confiscation.
46.—If the licensee of any private warehouse licensed under this Act does not open the same when required so to do by any officer entitled by law to have access thereto, or, upon demand made by any	113	such licensee shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
such officer at any time within the hours of business at the Port, refuses access to any such officer,		
47.—If the keeper of any public warehouse, or the licensee of any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof,	113	such keeper or licensee shall, for every such neglect, be liable to a penalty not exceeding fifty rupees.
48.—If the owner of any warehoused goods, or any person in the employ of such owner, clandestinely opens any warehouse, or, except in presence of the proper officer of Customs, gains access to his goods,	115	such owner or person shall, in every such case, be liable to a penalty not exceeding one thousand rupees.
49.—If any alteration be made in goods duly warehoused, or in the packing thereof, except as provided in section 116,	116	such goods shall be liable to confiscation.
50.—If any goods lodged in a private warehouse are found to be deficient at the time of delivery therefrom,	120	the licensee of 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.
51.—If the keeper of any public warehouse, or the licensee of 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,	120	such keeper or licensee 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.
52.—If any goods entered to be warehoused are, after being duly warehoused, 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,	127	such goods shall be liable to confiscation, and any person concerned in any such offence shall be liable to a penalty of one thousand rupees.
53.—If any goods lodged in a private warehouse are found to exceed the registered quantity,	127	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.
54.—If any goods be removed from the warehouse in which they were originally deposited, except in the presence, or with the sanction, of the proper officer, or under the proper authority for their delivery,	127	such goods shall be liable to confiscation, and any person so removing them shall be liable to a penalty not exceeding one thousand rupees.
55.—If any person illegally takes any goods out of any warehouse without payment of duty, or aids, assists, or is concerned therein,	127	such person shall be liable to a penalty not exceeding one thousand rupees.
56.—If any goods be taken on board of any vessel at any Customs-port before she has been entered outwards at such Port, in accordance with section 136,	136	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
57.—If any goods not enumerated in the manifest, or in a duly passed shipping-bill, are taken on board of any vessel,	137	the Master of such vessel shall be liable to a penalty not exing fifty rupees for every package of such goods.
58.—If any goods, whether liable to duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, or otherwise, which are enumerated in the manifest of any vessel, or in any shipping-bill, are not duly shipped before the departure of such vessel, or are relanded;	140	such goods shall be liable to confiscation.
and notice of such short shipment or relanding be not given as required in section 140,	141	the Master of such vessel shall,
59.—If any goods duly shipped on board of any such vessel be landed, except under section 141, at any place other than that for which they have been cleared,		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.
60.—If any goods on account of which drawback has been paid be not found on board of any vessel referred to in section 141,	141	the Master of such vessel shall be liable to a 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.
61.—If any person wilfully contravenes any rule relating to spirits made under section 143 or 153,	143 & 153	such person shall be liable to a penalty not exceeding five hundred rupees.
62.—If any person, without a special pass from an officer of excise at the place of exportation, relands or attempts to reland any spirituous liquor shipped for exportation,	152	such persons shall be liable to a penalty not exceeding five hundred rupees; 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.
63.—If, in contravention of any rules made under section 155, any goods are taken into, or put out of, or carried in, any coasting vessel; or	155	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, in addition to the ordinary duty, which shall in every case be levied on such goods.
if, contrary to any such rules, any coasting vessel touches at any Foreign Port, 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 fails to declare the same in writing to the Customs-collector at the Customs-port at which such vessel afterwards first arrives,		
64.—If any account required by section 156 be false,	156	the Master filling in or signing the same shall be liable to a

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
		penalty not exceeding five hundred rupees.
65.—If failure to produce the certificate mentioned in section 157, or to show sufficient reason for its non-production take place,	157	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.
66.—If any Master of a coasting vessel arriving at the Port of discharge fails, within twenty-four hours after arrival, to deliver a pass as required by section 158,	158	such Master shall be liable to a penalty not exceeding two hundred rupees.
67.—If upon examination, any package entered in the cargo-book required by section 161, as containing dutiable goods, is found not to contain such goods; or	161	such package, with its contents, shall be liable to confiscation.
if any package is found to contain dutiable goods not entered, or not entered as such, in such book,	161	such goods shall be liable to confiscation.
68.—If the Master of any coasting vessel which is square-rigged or propelled by steam fails correctly to keep, or to cause to be kept, a cargo-book, or to produce the same on demand; or	161	such Master shall be liable to a penalty not exceeding five hundred rupees.
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,		
69.—If the Master of any coasting vessel which is not square-rigged or propelled by steam violates any rule made under section 162,	162	such Master shall be liable to a penalty not exceeding one hundred rupees.
70.—If, contrary to the provisions of this or any other law for the time being in force relating to the Customs, any goods are laden on board of any vessel in any Customs-port and carried coastwise; or	Chapter XIII.	such goods shall be liable to confiscation, and the Master of such vessel shall be liable to a penalty not exceeding five hundred rupees.
if any goods which have been brought coastwise are unladen in any such Port; or		
if any goods are found on board of any coasting vessel without being entered in the clearance thereof,		
71.—If the Master of any coasting vessel refuses to bring any document to the Customs-collector when so required under section 163,	163	such Master shall be liable to a penalty not exceeding two hundred rupees.
72.—If any person makes or signs, or uses, any declaration or document used in the transaction of any business relating to the Customs, knowing such declaration or document to be false in any particular; or	General	shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand rupees.
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; or		
being required under this or any other Act relating to the Customs to produce any document, refuses or neglects to produce such document; or		
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,		
73.—If any person on board of any vessel or boat in any Customs-port, 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,	General	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.
74.—If any officer of Customs requires any person to be searched for dutiable or prohibited goods, or to be detained, without having reasonable ground to believe that he has such goods about his person, or has been guilty of an offence relating to the Customs,	166	such officer shall be liable to a penalty not exceeding one hundred rupees.
75.—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,	General	such officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.
76.—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,	General	such officer or person shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding two years, or to fine, or to both.
77.—If any Police-officer, whose duty it is, under section 177, to send a written notice or cause goods to be conveyed to a Custom-house, neglects so to do,	177	such Police-officer shall be liable to a penalty not exceeding one hundred rupees.
78.—If any person 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,	General	such 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.

The numbers in the third column of the above schedule are intended merely as general references to the parts of this Act to which the offences have general relation, but are not part of the definitions of those offences.

165. 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.

CHAPTER XV.

PROCEDURE RELATING TO OFFENCES, APPEALS, &c.

166. Any officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in any Port in British India, or any person who has landed from any vessel or boat:

Persons may be searched on reasonable suspicion.

Provided that such officer has reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person.

167. When any officer of Customs is about to search any person under the provisions of section 166, such person may require the said officer to take him, previous to search, before the nearest Magistrate or Customs-collector.

Persons may, before search, require to be taken before 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 Customs-collector.

The Magistrate or Customs-collector 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.

168. Any duly empowered officer of Customs or other person duly employed for the prevention of smuggling, may stop and search any vessel, 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 vessels, carts, &c., and search for goods on reasonable suspicion.

169. Any Magistrate may, on application by a Customs-collector, 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 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.

170. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act, 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.

Persons reasonably suspected may be detained.

171. Every person detained on the ground that he has been guilty of an offence under this Act, shall forthwith be taken before a Magistrate or Customs-collector.

Persons detained to be taken to nearest Magistrate or Customs-collector.

172. When any person detained on the ground that he has been guilty of an offence under this Act, 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 Magistrate 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.

173. If any person liable to be detained under this Act, is not detained at the time of committing the offence for which he is 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.

Person escaping may be afterwards detained.

174. When any person employed on the crew of any of Her Majesty's ships is detained under this Act, 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.

175. Any vessel or goods liable to confiscation may be seized 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.

176. 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 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 place appointed by the Chief Customs-Authority for the deposit of goods so seized.

177. When any goods liable to confiscation under this Act 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.

178. When any vessel or goods is or are seized, or any person is detained, under this Act, 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.

179. 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;

Adjudication of 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,

a Customs-collector, or if there be no such officer at the place where the confiscation or penalty or increased rates is or are incurred, such other officer as the Local Government from time to time appoints in this behalf, may, unless it be otherwise provided in this Act, adjudge such confiscation, penalty or increased rates of duty.

180. In cases cognizable under section 179 by the Customs-collector, the Local Government may empower any officer of Customs by name, or as holding an office, 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 Commissioner or Deputy Collector, to goods of a greater value than one thousand rupees, nor, as regards an Assistant Commissioner or Assistant Collector or other subordinate officer, to goods of a greater value than two hundred rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Commissioner or Deputy Collector, to a sum exceeding five hundred rupees, nor, as regards an Assistant Commissioner or Assistant Collector or other subordinate officer, to a sum exceeding one hundred rupees.

Proviso.

181. Whenever confiscation is authorized by this Act, the officer adjudging it shall 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.

182. When the confiscation of any vessel, cart or other means of conveyance, horse or other animal, or any goods, is adjudged under section 179 or section 180, 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.

183. If any vessel actually departs without a port-clearance, or after failing to bring-to when required at any station appointed under section 16, the penalty to which the Master of such vessel is liable may be adjudged by the Chief Officer of Customs of any Customs-port in British India to which such vessel proceeds, or in which she is, or in the 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 16.

A certificate of such departure or 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.

184. The award of any confiscation, penalty or increased rates of duty under this Act by an officer of Customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.

Penalty under Act not to interfere with punishment under other law.

185. All offences against this Act, other than those cognizable under section 179 by a Customs-collector, may be tried summarily by a Magistrate.

Offences not specially provided for how adjudicated.

186. 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 fit, 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 or have been adjudged against him in the original award.

Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs-Authority.

187. 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.

Goods on which penalty incurred not to be removed till payment.

188. When any penalty is incurred under this Act, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

If any person passing goods through the Custom-house has become liable to any fine or penalty, the Customs-collector may detain such goods until the fine or penalty is discharged.

Goods of person liable to fine or penalty may be detained.

Enforcement of payment of penalty.

189. 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 such goods, 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.

190. 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 does 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 does 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 does 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.

191. 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 of proportional part of fine.

192. 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.

CHAPTER XVI.

MISCELLANEOUS.

Rules to be notified.

193. All rules made under this Act shall be notified in the official Gazette, and shall thereupon have the force of law.

Notifications made may be cancelled.

194. Any notification in the *Gazette of India* or in the official Gazette made by any authority under powers conferred by this Act, may be cancelled in like manner by the same authority.

Remission of duty and compensation to owner in certain cases.

195. If in any case relating to the removal of goods without payment of duty, the person offending be an officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the owner of such goods, no duty shall be payable in respect of such goods. For any damage so occasioned by such officer, the Customs-collector shall, with the sanction of the Chief Customs-Authority, make due compensation to such owner.

Appropriation of penalties, &c., and grant of rewards.

196. 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.

Saving of Calcutta Port Commissioners' and Bombay Port-Trust Acts.

197. Nothing in this Act shall affect Bengal Acts V of 1870, VII of 1871 and III of 1872, or Bombay Act I of 1873, or any other law for the time being in force relating to the Commissioners for making improvements in the Port of Calcutta or the Trustees of the Port of Bombay respectively.

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.
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.
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.

PART II.

FORMS.

A.

FORM OF BOND FOR IMPORT DUTY.

(*See sections* 106 *and* 107).

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 (*or* in the District Court, *as the case may be*)

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 goods, 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*) ( )

B.

FORM OF BONDED WAREHOUSE WARRANT.

(*See section* 112).

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.

C.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See sections* 143 *and* 150).

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 (*or* in the District Court, *as the case may be*)

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

D.

FORM OF COASTING PASS—(*see section* 156).

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

Cleared the day of 18

(*Signed*) (*Officer in charge of Custom-house.*)

Here state the particulars according to the above headings.

(*Signed*) (*Name of Master.*)

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, NOVEMBER 3, 1877. { Register No. 53.

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 17th October 1877, and was referred to a Select Committee:—

No. 18 OF 1877.

A Bill to amend the North-Western Provinces Land-Revenue Act, 1873.

For the purpose of amending the North-Western Provinces Land-Revenue Act, 1873, it is hereby enacted as follows:— Preamble.

Addition to Act XIX of 1873, s. 29.

1. To section 29 of the same Act the following clause shall be added:—

"EXPLANATION.—Charges incurred in the preparation of village-maps shall be deemed to be charges within the meaning of this section."

Amendment of Act XIX of 1873, s. 194.

2. In section 194 of the said Act, for the words "otherwise rendered" the words "declared by the Local Government" shall be substituted.

Amendment of Act XIX of 1873, s. 199.

3. To section 199 of the same Act the following clause shall be added (namely):—

"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."

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill, which has been recommended by the Local Government, is to deprive persons whose estates are under the management of the Court of Wards of power to charge or alienate those estates. The opportunity has been taken to make a slight improvement in the wording of section 194 of the North-Western Provinces Land-Revenue Act, 1873, and to remove a doubt as to the power of applying the patwárí-fund raised under section 29 to defray the cost of preparing those village-maps, on which the correctness of the Patwárí's records mainly depends.

SIMLA; *The 13th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

[Third publication.]

The following Report of the 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 17th October 1877 :—

We, the undersigned Members of the Select Committee to which the Bill to amend the law relating to the management and preservation of Government forests, to the transit of forest produce and to the duty leviable on timber was referred, have the honour to report that we have considered the Bill and the papers specified in the margin.

From the Department of Revenue, Agriculture and Commerce, No. 1139, dated 21st October 1876.
„ Secretary to Chief Commissioner, Assam, No. 3779, dated 16th November 1876.
„ Assistant Secretary to Government of Bengal, No. 3822, dated 1st December 1876, and enclosures.
„ the Department of Revenue, Agriculture and Commerce, No. 1341, dated 15th December 1876, and enclosures.
„ Officiating Secretary to Chief Commissioner, Central Provinces, No. $\frac{4738}{222}$, dated 16th December 1876, and enclosures.
„ the Department of Revenue, Agriculture and Commerce, No. 1392, dated 30th December 1876, and enclosures.
Despatch from the Secretary of State for India, No. 50, dated 14th December 1876.
From Officiating Secretary to Chief Commissioner, Coorg, No. 695—1, dated 15th January 1877, and enclosure.
„ Officiating Assistant Secretary to Chief Commissioner, Central Provinces, No. $\frac{184}{2}$, dated 19th January 1877, and enclosure.
„ Officiating Under Secretary to Government, Panjáb, No. 39 F, dated 31st January 1877, and enclosures.
„ Officiating Secretary to Government, Panjáb, No. 54 F, dated 6th February 1877, and enclosures.
„ Chief Secretary to Government, Bombay, Revenue Department, No. 967, dated 15th February 1877, and enclosures.
„ Secretary to Government, Public Works Department, North-Western Provinces, No. 40 F, dated 19th February 1877, and enclosures.
„ Officiating Secretary to Chief Commissioner, Coorg, No. 756—2, dated 17th February 1877, and enclosure.
„ Secretary to Chief Commissioiner, British Burma, No. 35—31, dated 2nd February 1877, and enclosures.
„ Acting Secretary to Government, Fort St. George, No. 2149, dated 23rd December 1876, and enclosures.
„ Officiating Secretary to Government, Panjáb, No. 138 F, dated 5th April 1877, and enclosure.
„ Officiating Chief Secretary to Government of Madras, No. 892, dated 7th April 1877,
„ Officiating Secretary to Government, Panjáb, No. 231 S, dated 18th July 1877, and enclosures.
Despatch from the Secretary of State for India, No. 41, dated 5th July 1877.
From the Department of Revenue, Agriculture and Commerce, No. 1264 F, dated 6th October 1877, and enclosure.
Note by the Hon'ble T. C. Hope, dated 9th October 1877.

2. As Act VII of 1865 has never been extended to Madras or Bombay, and much confusion and uncertainty might be created by its continuing in force in so far as not superseded by the present Bill, we have provided (section 1) for its repeal, as also that of Acts VII of 1869 and XIII of 1873, in any territories to which the present Bill may be extended.

We have also provided that such extension shall be of the whole Bill, and not of parts only since it will always remain optional with Local Governments to exercise or not the powers which any chapter or section confers.

3. We have improved the definitions of "Forest-officer" and "Forest-produce," and have assimilated that of "cattle" to the definition in the Cattle Trespass Act.

4. In order to avoid the delay and expense of an elaborate preliminary demarcation, which was objected to in many quarters, we have provided (section 4) that the notification of the proposal to constitute a Reserved Forest may be in general terms, but have indicated more clearly (section 19) that the final demarcation must be precise.

5. We have made more clear (section 4) the intention that the Forest Settlement Officer should not, except under very exceptional circumstances, be a Forest-officer. But, in deference to representations from British Burma and the North-West Provinces, we have provided an option of entrusting the forest settlement to two or three officers instead of one.

6. In order to meet the case of the wild tribes and illiterate persons who will in many instances be the possessors of rights over forest lands, we have allowed (section 6) claims to be preferred orally to the Forest Settlement Officer and made it obligatory on him to take such statements down in writing.

7. With the same view we have required (section 7) the Forest Settlement Officer to inquire into the existence of rights, by searching the Government records and taking evidence, even though the people themselves, through ignorance or neglect, may not appear to claim them.

8. We have also provided (section 9) for the hearing of claims not preferred within the time prescribed by section 6, whenever claimants can shew sufficient cause for their delay.

9. In section 10 we have made more clear the alternative courses which may be pursued in the case of claims to or over land, and have also provided for compensation being given wholly or partly in land where the parties prefer land to money.

10. From section 12 the provisions contained in section 10 of the Bill as introduced for the rejection of rights which were not habitually exercised by the claimants at the time of the notification under section 4, or which were not required for the beneficial use of the land or premises or of the person claiming the same, have been omitted.

11. Sections 16 and 17 express more clearly than section 15 of the Bill as introduced the intention of the latter as to the authorities by whom and the manner in which appeals are to be heard.

12. We have made a new provision (section 21) for the revision by the Local Government, at any time not exceeding five years from the date of the Notification under section 19, of any settlement effected under section 14 which experience has shewn to be unworkable.

13. We have provided (section 24) that rights appendant to any land or house may be freely alienated therewith.

14. Section 28 has been amended in phraseology, so as to admit of forests, the use of which is essential to village communities, or in which such communities have rights jointly with Government, being assigned to such communities, under suitable precautions against waste or misappropriation.

15. In section 32 of the Bill as introduced it was provided that the provisions of chapter IV, regarding district or (as we prefer to term them) Protected forests, should be without prejudice to all existing rights of individuals or communities. In order, however, that holders of rights may not be put to the inconvenience and expense of proving them in order to establish their immunity from the restrictions of the chapter, we have provided (section 29) that no land shall be constituted a Protected Forest unless the nature and extent of the rights of Government and other persons in it have been enquired into and recorded at a survey or settlement or in some other sufficient manner. At the same time it has been left open to any person to dispute the correctness of such record.

16. In section 30 we have inserted a provision to permit of the closing of portions of a Protected Forest for a limited period, provided the remainder of the forest be sufficient and convenient for the exercise of rights thus temporarily suspended in the portion closed. This provision is in accordance with the rules in the North-West Provinces made under the existing law, and is generally considered necessary for purposes of renovation.

17. In section 32 we have given power to make rules to regulate the exercise of recorded rights, so as to prevent, in the interest of the community, waste and injury to the forest.

18. In order to preclude hardship to the owners of private forests from the operation of chapter V, we have enabled such owners (section 37) to require the Government to acquire the and for public purposes.

19. We have added a section (38) to enable Government, at the request of owners of land, either to administer such land as a Reserved or Protected Forest, or to apply to it all or any of the provisions of the Bill. This improvement has been made at the suggestion of the Panjáb Government, with special reference to sacred and other private forests in that province; but we have reason to believe that the option of obtaining for their forest property the same legal protection, and also (if desired) the same skilled administration, as the Government provides for its own, is likely to be welcomed by the owners of rent-free estates and other private property in many parts of India.

20. We have restricted (section 39) the power of levying a duty on timber produced in British India to timber in respect of which the Government has any rights. The holders of lands under lákhiráj, inámi or other tenures in which forest rights are included will thus not be interfered with. We have likewise validated the levy of such duties now existing, which are numerous in certain parts of India.

21. In section 45 we have empowered the Local Government to exempt any particular class of timber from the operation of the section, partly in order not to interfere with the collection of drift wood for fuel, which is common among the poorer classes in certain localities.

22. We have recast the earlier sections of chapter IX, so as to bring them into closer conformity with similar provisions in other special laws.

23. In section 63 we have inserted a provision that no person shall be arrested for any act which is an offence under chapter IV, excepting for a violation of a prohibition under clause (*c*) of section 30.

24. In section 67 we have restricted the power of Forest-officers, as regards compounding, to the receipt of compensation for damage committed.

25. We have enlarged section 73 by empowering the Local Government to make rules regarding the rewards to be paid to officers and informers out of the proceeds of fines and confiscations, and for the preservation, reproduction and disposal of trees and timber belonging to Government but grown on lands belonging to, or in the occupation of, private persons.

26. We have inserted a new section (77) to enable the Government to enforce service in cases where persons are entitled to a share in the produce of forests on the condition of duly performing service in connection with such forests.

27. We have carefully considered the objections made by the Government of Madras to the original draft of the Bill which was circulated previous to its introduction into the Council. We are of opinion that the improvements which have now been made in both the language and matter of the Bill are so material as substantially to meet these objections, some of which were based on a misapprehension of what was intended. It appears to us that the Bill, especially considering the latitude for meeting local peculiarities which the power of making rules affords, is now not unsuitable to the circumstances of the Madras Presidency, and is such as might be accepted by the Local Government. At the same time, being permissive in its application, it contains nothing to prevent separate local legislation, if that course should be eventually preferred.

28. The publication ordered by the Council has taken place; but we consider republication to be desirable.

29. We recommend that the Bill as now amended be passed.

SIMLA;
The 17th October 1877.

T. C. HOPE.
R. E. EGERTON.
A. J. ARBUTHNOT.
WHITLEY STOKES.
F. R. COCKERELL.

No. II.

THE INDIAN FOREST BILL, 1877.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
Extension.
2. Interpretation-clause.

CHAPTER II.

OF RESERVED FORESTS.

3. Power to reserve forests.
4. Notification by Local Government.
5. Bar of accrual of forest-rights.
6. Proclamation by Forest Settlement Officer.
7. Enquiry by Forest Settlement Officer.
8. Powers of Forest Settlement Officer.
9. Extinction of rights.
10. Power to acquire land over which right is claimed.
11. Order on claims.
12. Record to be made by Forest Settlement Officer.
13. Record where he admits claim.
14. Exercise of rights admitted or modified.
15. Commutation of rights.
16. Appeal from order passed under section 10, 11, 14 or 15.
17. Appeal under section 16.
18. Power to appoint pleader on behalf of Government.
19. Notification declaring forest reserved.
20. Publication of translation of such notification in neighbourhood of forest.
21. Power to revise arrangement made by Forest Settlement Officer under section 14.
22. Reserved Forests constituted previous to passing of Act.
23. No right acquired over Reserved Forest except as here provided.
24. Rights not to be alienated without sanction.
25. Power to stop ways and water-courses in such forests.

SECTIONS.
26. Acts prohibited in such forests.
27. Power to declare forest no longer reserved.

CHAPTER III.

OF VILLAGE-FORESTS.

28. Formation of village-forests.

CHAPTER IV.

OF PROTECTED FORESTS.

29. "Protected Forests" defined.
30. Power to issue notification—
(*a*) reserving trees,
(*b*) closing forest,
(*c*) prohibiting collection of forest-produce,
(*d*) and breaking up or clearing of land.
31. Publication of translation of such notification in neighbourhood.
32. Power to make rules regulating disposal of produce of protected forests.
33. Penalties for acts in contravention of notification under section 30.
34. Nothing in this chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

35. Protection of forests for special purposes.
36. Power to assume management of such forests.
37. Expropriation of forests in certain cases.
38. Protection of forests at request of owners.

CHAPTER VI.

OF THE DUTY ON TIMBER.

39. Power to impose duty on timber.
Power to fix value for *ad valorem* duty.
40. Limit not to apply to royalty or purchase-money.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

41. Power to make rules to regulate transit of forest-produce.
42. Penalty for breach of rules made under section 41.
43. Government and its officers not liable for damage to forest-produce at depôt.
44. All persons bound to aid in case of accident at depôt.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

45. Certain kinds of timber to become property of Government until title thereto proved, and may be collected accordingly.
46. Notice to claimants of drift-timber.
47. Procedure on claim preferred to such timber.
On rejection of claim to such timber, claimant may institute suit.
48. Disposal of unclaimed timber.
49. Government and its officers not liable for damage to such timber.
50. Payments to be made by claimant before timber is delivered to him.
51. Power to make rules and prescribe penalties.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

52. Seizure of property liable to confiscation.
Application for confiscation.
53. Procedure thereupon.
54. Forest-produce, tools, &c., when liable to confiscation.
55. Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.
56. Procedure when offender not known, or cannot be found.
57. Procedure as to perishable property seized under section 52.
58. Appeal from such order.
59. Property when to vest in Government.
60. Saving of power to release property seized.
61. Punishment for wrongful seizure.
62. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

B.—Of Criminal Procedure.

63. Power to arrest without warrant.
64. Power to prevent commission of offence.
65. Power to try offences summarily.
66. Operation of other laws not barred.
67. Power to compound offences.
68. Presumption that timber belongs to Government.

C.—Of Cattle-trespass.

69. Cattle Trespass Act, 1871, to apply.
70. Power to alter fines fixed by that Act.

D.—Miscellaneous.

71. Persons interested in forest bound to assist Forest-officer and Police-officers.
72. Local Government may invest Forest-officers with certain powers.
73. Additional powers to make rules.
74. Power to impose penalties for breach of rules.
75. Rules when to have force of law.
76. Management of forests the joint property of Government and other persons.
77. Enforcement of service for which a share in produce of Government forest is enjoined.
78. Recovery of money due to Government.
79. Lien on forest-produce for such money.
Power to sell such produce.
80. Forest-officers deemed public servants.
81. Indemnity for acts done in good faith.
82. Forest-officers not to trade.
83. Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

SCHEDULE.

A Bill to amend the law relating to forests, the transit of forest-produce and the duty leviable on timber.

WHEREAS it is expedient to amend the law relating to fore-ts, the transit of forest-produce and the duty leviable on timber; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Indian Forest Act, 1877:" Short title.

It shall come into force at once; Commencement.

And the Local Government may from time to time, with the previous sanction of the Governor General in Council, extend, by notification in the official Gazette, this Act to all or any of the territories for the time being under its administration. Extension.

The Acts mentioned in the Schedule hereunto annexed shall be repealed in the territories comprised in such notification. Repeal of Acts.

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

"Forest-officer" means any person whom the Governor General in Council, or the Local Government or any officer empowered in that behalf, may from time to time appoint by name, or as holding an office, to carry out all or any of the purposes of this Act, or anything required by this Act or under any rule made under this Act to be done by a Forest-officer: "Forest-officer."

"Tree" includes bamboos, stumps and brushwood: "Tree."

"Timber" includes trees and bamboos when they have fallen or have been felled, and all wood whether cut up, or fashioned or hollowed out for cart-wheels, mortars, canoes or other purposes or not: "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, peat, reeds, leaves, moss, flowers, fruits, roots, juice, catechu, bark, honey, wax, lac, caoutchouc, gum, wood-oil, grass-oil, resin, varnish, silk-worms and cocoons, skins, tusks, bones and horns:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act: "Forest-offence."

"Cattle" means cattle as defined in the Cattle Trespass Act, 1871: "Cattle."

"River" includes streams, canals, creeks and other channels, natural or artificial. "River."

CHAPTER II.

OF RESERVED FORESTS.

3. The Local Government may, from time to time, constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a Reserved Forest in the manner hereinafter provided. Power to reserve forests.

4. Whenever it is proposed to constitute any land a Reserved Forest, the Local Government shall publish a notification in the official Gazette— Notification by Local Government.

(*a*) declaring that it is proposed to constitute such land a Reserved Forest;

(*b*) specifying the limits of such forest;

(*c*) appointing an officer (hereinafter 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 to or over any land comprised within such limits, or to or over any forest-produce, and to deal with the same as provided in this chapter.

Explanation 1.—For the purpose of clause (*b*) of this section it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

Explanation 2.—The officer appointed under clause (*c*) of this section shall ordinarily not be a Forest-officer.

Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a Forest-officer, to perform the duties of a Forest Settlement Officer under this Act.

5. During the interval between the publication of such notification and the date fixed by the notification under section nineteen, no right shall be acquired to, over, or in respect of the land 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 clearings for cultivation or for any other purpose shall be made in such land. Bar of accrual of forest-rights.

6. When a notification has been issued under section four, the Forest Settlement Officer shall publish in the language of the country in every town and village in the neighbourhood of the land comprised therein, a proclamation:— Proclamation by Forest Settlement Officer.

(*a*) specifying the limits of the proposed 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 either to present to such officer within such period a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

7. The Forest Settlement Officer shall—

(*a*) take down in writing all statements made under section six, and shall, at some convenient place, enquire into— Enquiry by Forest Settlement Officer.

(*b*) all claims duly preferred under section six, and

(*c*) the existence of any rights as aforesaid, so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

8. For the purposes of such enquiry, the Forest Settlement Officer may exercise the following powers, that is to say:— Powers of Forest Settlement Officer.

(*a*) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same;

(*b*) the powers of a Civil Court in the trial of suits.

9. The following rights shall be extinguished:— Extinction of rights.

(*a*) rights in respect of which no such claim has been so preferred, if the person claiming them fails, before the notification under section nineteen is published, to satisfy the Forest Settlement Officer that he had sufficient cause for not preferring such claim within such period; and

(*b*) rights of the existence of which no knowledge has been acquired by enquiry under section seven, clause (*c*).

10. In the case of a claim to a right to or over any land, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part. Power to acquire land over which right is claimed.

If such claim is admitted in whole or in part, the Forest Settlement Officer shall either (1) exclude such land from the limits of the proposed Forest; or (2) come to an agreement with the owner thereof for the surrender of his rights; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

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 appearing before him in pursuance of a notice given under section nine of that Act;

(*c*) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(*d*) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land or partly in land and partly in money.

11. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part. Order on claims.

12. The Forest Settlement Officer, when passing any order under section eleven, shall record, so far as may be practicable, Record to be made by Forest Settlement Officer.

(*a*) the name, father's name, caste, residence and occupation of the person claiming the right,

(*b*) the designation, 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.

13. If the Forest Settlement Officer admits in whole or in part any claim under section eleven, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, or such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered. Record where he admits claim.

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, pass such orders as will ensure the continued exercise of the rights so admitted or modified. For this purpose the Forest Settlement Officer may— Exercise of rights admitted or modified.

(*a*) 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; or

(*b*) so alter the limits of the proposed Forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient for the purposes of the claimants; or

(*c*) record an order, continuing to such claimants a right to pasture or to forest-produce (as the case may be), to the extent so admitted, at such seasons, within such portions of the proposed Forest and under such rules as may from time to time be prescribed by the Local Government.

15. In case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the Reserved Forest, to make such settlement under section fourteen as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Local Government 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 he thinks fit. Commutation of rights.

16. Any person who has made a claim under this Act, or any Forest Officer or other person generally or specially empowered by the Local Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under section ten, eleven, fourteen or fifteen, present an appeal from such order to— Appeal from order passed under section 10, 11, 14 or 15.

(*a*) such officer of the Revenue Department, of rank not lower than that of a Collector or Deputy

Commissioner, as the Local Government may, from time to time, by notification in the official Gazette, appoint by name, or as holding an office, to hear appeals from such orders, or

(*b*) a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the Local Government to hear appeals from such orders.

17. Every appeal under section sixteen shall be made by petition in writing, and may be delivered to the Forest Settlement Officer, who shall forward it to the authority competent to hear the same.

Appeal under section 16.

If the appeal be to the officer appointed under section sixteen, clause (*a*), it shall be heard in the manner prescribed for the hearing of appeals in matters relating to land-revenue.

If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal and shall give notice thereof to the parties, and shall hear such appeal accordingly.

The order passed thereon by such officer or Court, or by the majority of the members of such Court, shall be final, subject to revision by the Local Government.

18. The Local Government may appoint any person to appear, plead and act on behalf of the Government before the Forest Settlement Officer or the appellate officer or Court in the course of any inquiry or appeal under this Act.

Power to appoint pleader on behalf of Government.

19. When the following events have occurred (namely)—

Notification declaring forest reserved.

(*a*) the period fixed under section six for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest Settlement Officer; and

(*b*) such claims have been made, and the period limited by section sixteen 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 appellate officer or Court; and

(*c*) all lands (if any) to be included in the proposed forest, which the Forest Settlement Officer has, under section ten, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act,

the Local Government may publish a notification in the official Gazette specifying definitely, according to boundary marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a Reserved Forest.

20. The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the language of the district to be affixed in some conspicuous place in every town and village in the neighbourhood of the forest.

Publication of translation of such notification in neighbourhood of forest.

21. The Local Government may, within five years from the publication of any notification under section nineteen, revise any arrangement made by the Forest Settlement Officer under section fourteen, and may, for this purpose, rescind or modify any order made under that section, and direct that any one of the proceedings specified in section fourteen be taken in lieu of any other of such proceedings, or that the rights admitted under section eleven be commuted under section fifteen.

Power to revise arrangement made by Forest Settlement Officer under section 14.

22. Every forest constituted a Reserved Forest, whether under the designation of Government Forest or otherwise, previous to the date on which this Act is extended to the territory in which such forest is situated shall be deemed to have been constituted a Reserved Forest under this Act: and the Local Government shall, within twelve months from such date, declare, by notification in the official Gazette, what forests shall be deemed to have been so constituted.

Reserved Forests constituted previous to passing of Act.

Provided that, if any rights to or over any land or forest-produce are claimed in such Reserved Forest, and such claims have not already been enquired into and settled, the Local Government may direct that such claims shall be inquired into and settled in the manner provided by this Act.

23. 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.

No right acquired over Reserved Forest, except as here provided.

24. No right continued under section fourteen, clause (*c*), shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Local Government: provided that when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

Rights not to be alienated without sanction.

No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section thirteen.

25. The Forest-officer may, from time to time, with the previous sanction of the Local Government or of any officer duly authorized in that behalf, stop any public or private way or water-course in a Reserved Forest, provided that a reasonably convenient substitute for the way or water-course so stopped already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

Power to stop ways and water-courses in such forests.

26. Any person who—

Acts prohibited in such forests.

(*a*) sets fire to a Reserved Forest, or kindles any fire in such manner as to endanger the same;

or who, in a Reserved Forest,

(*b*) kindles, keeps or carries any fire except at such seasons as the Forest officer may from time to time notify in this behalf;

(*c*) trespasses or grazes cattle or permits cattle to trespass;

(*d*) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(*e*) sells, girdles, lops, taps or burns any tree, or strips off the bark or leaves from, or otherwise damages, the same;

(*f*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes therefrom, any forest-produce;

(*g*) clears or breaks up any land for cultivation or any other purpose;

(*h*) hunts, shoots, fishes, kills or catches elephants, poisons water, or sets traps or snares in contravention of any rules which the Local Government may from time to time prescribe;

(*i*) makes any fresh clearing prohibited by section five;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both, in addition to such compensation for damage 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 continued under section fourteen, clause (*c*), or created by grant or contract in writing made by or on behalf of Government under section twenty-three.

Whenever fire is caused wilfully, or by gross negligence, in a Reserved Forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights to pasture or forest-produce shall be suspended for such period as it thinks fit.

27. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act, shall cease to be a Reserved Forest.

Power to declare forest no longer reserved.

From the date so fixed, such forest or portion shall cease to be reserved, but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

OF VILLAGE-FORESTS.

28. The Local Government may, from time to time, assign to any village community the rights of Government to or over any land which is, or which under this Act might be constituted, a Reserved Forest, and may cancel such assignment. All forests so assigned shall be called Village-forests.

Formation of village-forests.

The Local Government may make rules for regulating the management of Village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber, or other forest-produce or pasture, 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 the rules so made) apply to Village-forests.

CHAPTER IV.

OF PROTECTED FORESTS.

29. The Local Government may from time to time, by notification in the official Gazette, declare the provisions of this chapter applicable to any forest-land or waste-land which is not included in a Reserved Forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

"Protected Forest" defined.

The forest-land and waste-lands comprised in any such notification shall be called a "Protected Forest."

No such notification shall be made unless the nature and extent of the rights of Government and of private persons in the forest-land or waste-land comprised therein have been enquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient.

Every such record shall be presumed to be correct until the contrary is proved.

30. The Local Government may from time to time, by notification in the official Gazette,—

Power to issue notification—

(*a*) declare any class of trees in a protected forest, or any trees in any such forest, to be reserved from a date fixed by such notification;

reserving trees,

(*b*) declare from time to time a portion of such forest to be closed, for such term not exceeding ten years as the Local Government thinks fit, and that the rights of private persons over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed;

closing forest,

(*c*) prohibit, from a date fixed as aforesaid,

the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process or removal of any forest-produce, in any such forest, and

prohibiting collection of forest-produce,

the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, any land in any such forest; and

and breaking up or clearing of land.

(*d*) alter or cancel such declaration or prohibition.

31. The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district of every notification issued under section thirty to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Publication of translation of such notification in neighbourhood.

32. The Local Government may, from time to time, make rules to regulate the following matters:—

Power to make rules regulating disposal of produce of protected forests.

(*a*) the cutting, sawing, conversion and removal of trees and timber, and the collection, manu-

facture and removal of forest-produce from protected forests;

(*b*) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take forest-produce for their own use, and the production and return of such licenses by such persons;

(*c*) the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade and the production and return of such licenses by such persons;

(*d*) the payments (if any) to be made by the persons mentioned in clauses (*b*) and (*c*) of this section for permission to cut such trees, or to collect and remove such timber or other forest-produce;

(*e*) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payments shall be made;

(*f*) the examination of forest-produce passing out of such forests;

(*g*) the clearing and breaking up of land for cultivation or other purposes in such forests;

(*h*) the protection from fire of timber lying in such forests and of trees reserved under section thirty;

(*i*) the cutting of grass and pasturing of cattle in such forests;

(*j*) hunting, shooting, killing or catching elephants, fishing, poisoning water, and setting traps or snares in such forests;

(*k*) the protection and management of any portion of a forest closed under section thirty;

(*l*) the exercise of rights recorded under section twenty-nine.

Penalties for acts in contravention of notification under section 30.

33. Any person who commits any of the following offences:—

(*a*) fells, girdles, lops, taps or burns any tree reserved under section thirty, or strips off the bark or leaves from, or otherwise damages, any such tree;

(*b*) contrary to any prohibition under section thirty, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;

(*c*) contrary to any prohibition under section thirty, breaks up or clears for cultivation or any other purpose, any land in any protected forest;

(*d*) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any trees reserved under section thirty, whether standing, fallen or felled, or to any closed portion of such forest;

(*e*) leaves burning any fire kindled by him in the vicinity of any such trees or timber;

(*f*) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;

(*g*) permits cattle to damage any such tree;

(*h*) infringes any rule made under section thirty-two;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees, or with both.

Nothing in this chapter to prohibit acts done in certain cases.

34. Nothing in this chapter 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 thirty-two, or (except as regards any portion of a forest closed under section thirty) in the exercise of any right recorded under section twenty-nine.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

Protection of forests for special purposes.

35. The Local Government may from time to time, by notification in the official Gazette, regulate or prohibit in any forest or waste land—

(*a*) the breaking up of land for cultivation;

(*b*) the grazing of cattle;

(*c*) the firing or clearing of the vegetation;

when such regulation or prohibition appears necessary for any of the following purposes:—

First.—For protection against storms, winds, rolling stones, floods, and avalanches;

Second.—For the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones or gravel;

Third.—For the maintenance of a water-supply in springs, rivers and tanks;

Fourth.—For the protection of roads, bridges, railways and other lines of communication;

Fifth.—For the preservation of the public health;

and may alter or cancel such notification.

The Local Government may, for any such purpose, construct at its own expense, in or upon any such forest or waste-land, such work as it thinks fit.

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling on him to shew cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf, and have been considered by the Local Government.

Power to assume management of such forests.

36. In case of neglect of, or wilful disobedience to, any regulation or prohibition under section thirty-five, or if the purposes of any work to be constructed under that section so require, the Local Government may, after notice in writing to the owner of such forest or land, and after considering his objections (if any), place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to Reserved Forests shall apply to such forest or land.

The nett profits (if any) arising from the management of such forest or land shall be paid to the said proprietor

Expropriation of forests in certain cases.

37. In any case under this chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.

The owner of any forest or land comprised in any notification under section thirty-five may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

Protection of forests at request of owners.

38. The owner of any land or, if there be more than one person interested therein, any such persons interested in the aggregate in not less than two-thirds of the area thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector or Deputy Commissioner their desire—

(*a*) that such land be managed on their behalf by the Forest-officer as a Reserved or a Protected Forest on such terms as may be mutually agreed upon; or

(*b*) that all or any of the provisions of this Act be applied to such land.

In either case, the Local Government may, by notification in the official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled.

CHAPTER VI.

OF THE DUTY ON TIMBER.

Power to impose duty on timber.

39. The Local Government, with the previous sanction of the Governor General in Council, may levy a duty in such manner, at such places, and at such rates as it may, from time to time, prescribe by notification in the official Gazette, on all timber

(*a*) which is produced in British India, and in respect of which the Government has any right;

(*b*) which is brought from any place beyond the frontier of British India.

Power to fix value for *ad valorem* duty.

In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, with the like sanction, from time to time fix, by like notification, the value on which such duty shall be assessed.

All such duties, which, at the time when this chapter is extended to any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

Limit not to apply to royalty or purchase-money.

40. Nothing in this chapter shall be deemed to limit the amount chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

Power to make rules to regulate transit of forest-produce.

41. The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it 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 alone timber and other forest-produce may be imported, exported or moved, into, from, or within, British India;

(*b*) prohibit the import and export or moving of such timber or other produce without a pass from an officer duly authorized to issue the same, 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, reporting, examination and marking 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; the conditions under which such timber or other produce shall be brought to, stored at, and removed from, such depôt;

(*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;

(*g*) provide for the prevention and removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, 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;

(*i*) regulate the use of property-marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration,

42. The Local Government may by such rules prescribe, as penalties for the infringement thereof, imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees or both. Double penalties may be inflicted in cases where the offence is committed after sunset and before sunrise, after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence.

Penalty for breach of rules made under section 41.

43. 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 forty-one, or while detained elsewhere for the purposes of this Act; 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.

44. 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 render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

All persons bound to aid in case of accident at depôt.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

45. All timber found adrift, beached, stranded, or sunk; and all unmarked wood and timber, or wood or timber bearing marks which have not been registered under section forty-one, or on which the marks have been obliterated, altered or defaced by fire or otherwise, shall be deemed to be the property of Government unless and until any person establish his right and title thereto, as provided in this chapter.

Certain kinds of timber to become property of Government until title thereto proved, and may be collected accordingly.

Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section fifty-one, and may be brought to such depôts as the Forest-officer may from time to time notify as depôts for the reception of drift-timber.

The Local Government may, by notification in the official Gazette, exempt any class of timber from the provisions of this section, and withdraw such exemption.

46. Public notice shall from time to time be given by the Forest-officer, of timber collected under section forty-five. Such notice shall contain a description of the timber and shall require any person claiming the same to present to such officer within a period not less than two months from the date of such notice a written statement of such claim.

Notice to claimants of drift-timber.

47. When any such statement is presented as aforesaid, the Forest-officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

Procedure on claim preferred to such timber.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending orders from any such Court for its disposal.

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 compensation 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.

No such timber shall be subject to process of any Civil, Criminal, or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section forty-six, 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 forty-seven, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section forty-seven, in such other person, free from all encumbrances.

Disposal of unclaimed timber.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section forty-five; 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.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sums on account of the collection thereof as may be due under any rule made in pursuance of section fifty-one.

Payments to be made by claimant before timber is delivered to him.

51. The Local Government may from time to time make rules to regulate the following matters (namely):—

Power to make rules and prescribe penalties.

(*a*) the salving, collection and disposal of all timber mentioned in section forty-five;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting, moving, storing and disposal of such timber;

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Local Government may from time to time prescribe as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine not exceeding five hundred rupees, or both.

CHAPTER IX.

GENERAL.

A.—Of Penalties.

52. When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in committing such offence, may be seized by any Forest-officer or Police-officer.

Seizure of property liable to 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, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Application for confiscation.

Provided that when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

53. Upon the receipt of any such report the Magistrate shall with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Procedure thereupon.

54. All timber or forest-produce which is not the property of Government and 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.

Forest-produce, tools, &c., when liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

55. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and in any other case may be disposed of in such manner as the Court may direct.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

56. When the offender is not known, or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom he deems to be entitled to the same.

Procedure when offender not known, or cannot be found.

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

57. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section fifty-two and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Procedure as to perishable property seized under section 52.

58. The officer who made the seizure under section fifty-two, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of such order, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Appeal from such order.

59. When an order for the confiscation of any property has been passed under section fifty-four or fifty-six, as the case may be, and the period limited by section fifty-eight for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court 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 encumbrances.

Property when to vest in Government.

60. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section fifty-two.

Saving of power to release property seized.

61. Any Forest-officer or Police-officer who vexatiously and 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.

62. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,—

Penalty for counterfeiting or defacing marks on trees and timber and for altering 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.

63. Any Forest-officer or Police-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.

Nothing in this section shall be deemed to authorize such arrest for any act which is an offence under chapter IV of this Act, unless such act has been prohibited under section thirty, clause (*c*).

64. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any Forest-offence.

Power to prevent commission of offence.

65. The Magistrate of the district, and any Magistrate of the first class specially empowered in this behalf by the Local Government, may try summarily under the Code of Criminal Procedure, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees.

Power to try offences summarily.

66. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Operation of other laws not barred.

67. The Local Government may from time to time, by notification in the official Gazette, empower any Forest-officer by name, or as holding an office, to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence other than an offence under section sixty-one or section sixty-two a sum of money by way of compensation for any damage which may have been committed, and may release any property which has been seized on payment of the value thereof as estimated by such officer.

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 shall be taken under this Act against such person or property; but nothing herein contained shall exempt him from prosecution on the same facts under any other law for the time being in force.

68. When in any proceedings taken 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.

69. Cattle trespassing in a Reserved Forest, or in any portion of a Protected Forest which has been lawfully closed to grazing, 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 Forest-officer or Police-officer.

Cattle-trespass Act, 1871, to apply.

70. The Local Government may from time to time, by notification in the official Gazette, 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 sixty-nine of this Act, such fines as it thinks fit, but not exceeding the following, that is to say:—

Power to alter fines fixed by that Act.

For each elephant	ten rupees.
For each buffalo or camel	two „
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer...	one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	eight annas.

D.—Miscellaneous.

71. Every person who exercises any right in a Protected Forest, or in a Reserved Forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and

Persons interested in forest bound to assist Forest-officer and Police-officers.

every person employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any Forest-officer or Police-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.

72. The Local Government may invest any Forest-officer by name, or as holding an office, with the following powers, that is to say:—

Local Government may invest Forest-officers with certain powers.

(*a*) power to enter upon any land and to survey, demarcate, and make a map of the same;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue a search-warrant under chapter XXVII of the Code of Criminal Procedure;

(*d*) power to hold an enquiry into forest-offences, and, in the course of such enquiry, to record evidence on oath.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

73. The Local Government may from time to time make rules—

Additional powers to make rules.

(*a*) to prescribe and limit the powers and duties of any Forest-officer under this Act;

(*b*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act;

(*c*) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and

(*d*) generally to carry out the provisions of this Act.

74. The Local Government may, in making any rule under this Act for breach of which no special penalty is provided, attach to the breach of it, in addition to any other consequences that would ensue therefrom, the punishment, on conviction before a Magistrate, of imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Power to impose penalties for breach of rules.

75. All rules made by the Local Government under this Act shall be published in the official 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.

Provided that no rule made under section twenty-eight, thirty-two, or forty-one shall be so published without the previous sanction of the Governor General in Council.

76. If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Government may, from time to time, either

Management of forests the joint property of Government and other persons.

(*a*) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

When the Government undertakes, under clause (*a*) of this section, the management of any forest, waste-land or produce, it may, from time to time, by notification in the official Gazette, declare that all or any of the provisions contained in chapters II and IV of this Act shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

77. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed: Provided that no such share shall be confiscated until the person entitled thereto, and the evidence (if any) which he may produce in proof of the due performance of such service have been heard by an officer duly appointed in that behalf by the Local Government.

Enforcement of service for which a share in produce of Government forest is enjoyed.

78. 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 under the law for the time being in force as if it were an arrear of land-revenue.

Recovery of money due to Government.

79. 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.

80. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Forest-officers deemed public servants.

81. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Indemnity for acts done in good faith.

82. Except with the permission in writing of the Local Government, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

Forest-officers not to trade.

83. Whenever it appears to the Local Government that any land is required for any of the purpose of this Act such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

SCHEDULE.

(*See section* 1.)

ACTS REPEALED.

Number and year of Act.	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.

A. PHILLIPS,
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 24th October 1877, and was referred to a Select Committee:—

No. 19 OF 1877.

A Bill to amend the Panjáb Laws Act, 1872.

For the purpose of amending the Panjáb Laws Act, 1872; It is hereby enacted as follows:—

Preamble.

Substitution of new section for Act IV of 1872, s. 5.

1. For section 5 of the said Act, the following shall be substituted (namely):—

"5. 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—

Decisions in certain cases to be according to Native law.

(*a*) 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:

(*b*) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindú law, in cases where the parties are Hindús, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is above referred to."

Substitution of new sections for Act IV of 1872, ss. 9 to 18.

2. For sections 9 to 18 (both inclusive) of the same Act, the following shall be substituted:—

"9. 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. It arises in respect of sales (whether under a decree or otherwise) of immoveable property and of foreclosures of rights to redeem such property.

Right of pre-emption.

"10. 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

(*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 of occupancy affecting such lands.

"11. The right of pre-emption shall not be presumed to exist in any town or city, or any subdivision 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.

"12. If the property to be sold or the right to redeem which is to be foreclosed is situate within, or is a share of, a village, 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 or foreclosed is situate within a village.

(*a*) first, to co-sharers in the village, in order of their relationship to the vendor or mortgagor;

(*b*) secondly, if no relation of the vendor or mortgagor claims to exercise such right, to the landowners of the pattí or other sub-division of the village in which the property is situate, jointly;

(*c*) thirdly, to any member of the village-community; and

(*d*) fourthly, to the tenants (if any) with rights of occupancy in the village:

Provided that when the property is land, to the trees standing on which the Government is entitled, such right belongs to the Lieutenant-Governor of the Panjáb in preference to all other persons.

Where two or more persons are equally entitled to such right, the person to exercise the same shall be determined by lot.

"12 A. When the property to be sold or the right to redeem which is to be foreclosed is a share in joint undivided immoveable property other than land, such right belongs to the co-sharers.

Right when property to be sold is a share in joint undivided immoveable property other than land.

"13. When any person proposes to sell any property, or to foreclose the right to redeem any property, in respect of which any persons have a right of pre-emption, he shall 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 the mortgage, as the case may be.

Notice to pre-emptors.

Such notice shall be given through the Court within the local limits of whose jurisdiction the property or any part thereof is situate, and shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village, town or city in which the property is situate.

"14. 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.

"15. When the right of pre-emption arises in respect of the foreclosure of the right to redeem any property, any person entitled to such right may, at any time within three months after the giving of the notice required by section thirteen, 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.

"16. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely):—

Suit to enforce right of pre-emption.

(*a*) that no due notice was given as required by section thirteen;

(*b*) that tender was made under section fourteen or section fifteen and refused;

(*c*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*d*) in the case of a foreclosure, 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 foreclosure, 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.

"17. If the Court find for the plaintiff, the decree shall specify a day on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid.

Decree to fix time for payment.

"18. If such purchase-money or amount is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or foreclosure, lose his right of pre-emption over the property to which the decree relates."

Effect of non-payment of purchase-money.

Substitution of new section for Act IV of 1872, s. 35.

3. For section 35 of the same Act the following shall be substituted (namely):—

"35. The Court of Wards may, at its discretion, take charge of, and administer, the estates of all disqualified persons, that is to say:—

Jurisdiction of Court of Wards.

(*a*) females deemed by the Local Government incompetent to manage their estates,

(*b*) persons who have not completed the age of eighteen years,

(*c*) idiots,

(*d*) lunatics,

(*e*) persons declared by the Local Government, incapable, owing to physical defects or infirmities, to manage their own estates,

(*f*) persons convicted of a non-bailable offence and disqualified, in the opinion of the Local Government, by vice or bad character from managing their estates,

(*g*) persons declared by the Local Government, on their own application, to be disqualified from managing their estates:

Provided that the Court of Wards shall not take charge of or administer the estate of any person of any of the classes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of this section, unless he has inherited a beneficial interest in an estate for which a settlement was made with his ancestor, or in respect of which he would have been entitled to be settled with, if he had been competent to make an agreement for the payment of revenue, or unless he is entitled by inheritance to an assignment of land-revenue:

Proviso.

Provided also 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."

Further proviso.

4. To section 38 of the same Act the following clause shall be added (namely):—

Amendment of Act IV of 1872, section 38.

"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."

STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are four: first, to make some necessary amendments in the drafting of the Panjáb Laws Act, section 5: secondly, to make like amendments in the sections of that Act relating to pre-emption and to give the Lieutenant-Governor a right of pre-emption in respect of land on which trees belonging to Government are standing: thirdly, to extend the jurisdiction of the Court of Wards to the estates of three classes of proprietors, namely, those incapable, owing to physical defects or infirmities, of managing their own estates; those convicted of a non-bailable offence and disqualified by vice or bad character from managing their estates; and those declared, on their own application, to be so disqualified. The fourth and last object of the Bill is to render all persons whose property is under the superintendence of the Court of Wards incompetent to charge such property without the sanction of the Court.

SIMLA; *The 18th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
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 24th October 1877, and was referred to a Select Committee:—

No. 20 of 1877.

A Bill to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices.

Preamble.

Whereas by the Merchant Shipping Act, 1854, section 213, and by the Merchant Shipping Act Amendment Act, 1855, section 16, it is enacted that the Board of Trade may, in manner therein mentioned, and in the name of Her Majesty, sue for and recover the wages due to, and expenses incurred in respect of, the distressed seamen and apprentices in the said sections mentioned; And whereas it is expedient to empower such persons as the Governor General in Council may think fit to sue for and recover in British India in the name of the Secretary of State for India in Council, such wages and expenses, when the same are charged upon any ship, or recoverable from any master, owner or other person, found in British India; It is hereby enacted as follows:—

Power to appoint persons to sue.

1. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, any wages or expenses recoverable under the said sections of the said Acts in cases where such wages and expenses are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India. Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

Suits, &c., to be instituted in name of Secretary of State for India in Council.

2. All suits and proceedings under this Act shall be instituted and carried on in the name of the Secretary of State for India in Council.

STATEMENT OF OBJECTS AND REASONS.

By the Merchant Shipping Act, 1854, section 213, and 18 & 19 Vict., c. 91, section 16, provision is made for the recovery by the Board of Trade of wages due to, and expenses incurred in relieving, distressed seamen and apprentices in foreign and colonial ports. These distressed seamen are in many cases Natives of India, and belong to ships which are either registered in or trade to India, and which are seldom, if ever, found within the ports of the United Kingdom. In such cases the Board of Trade has considerable difficulty in recovering the sums expended. When the distressed seamen are Natives of this country, these expenses are charged to the Indian revenue. It is therefore desirable that the Government of India should be enabled to empower some person here to sue, in case the ships or persons chargeable are found in this country. The Bill effects this object by providing that such suits may be brought in the name of the Secretary of State in Council by such persons as the Governor General in Council may, by notification in the *Gazette of India*, generally or specially authorize in that behalf. The Bill will also enable persons so authorized to sue in all cases in which the ships or persons chargeable are found in this country, even though the Indian revenue may not be concerned.

SIMLA; *The 9th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

[Second Publication.]

The following Report of a Select Committee, together with the Bill as amended by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 24th October 1877:—

WE, the undersigned members of the Select Committee to which the Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India was referred, have the honour to report that we have considered the Bill and the papers specified in the margin.

From Financial Department, No. 1354, dated 18th June 1870, and enclosures.
„ ditto No. 1813, dated 5th July 1870, and enclosures.
„ ditto No. 2150, dated 23rd July 1870, and enclosures.
„ ditto No. 2998, dated 12th November 1870, and enclosures.
„ Acting Chief Secretary to Government, Bombay, No. 5623, dated 15th November 1870, and enclosures.
„ Financial Department, No. 291, dated 16th January 1871, and enclosures.
„ ditto No. 1745, dated 24th July 1876, and enclosure.
Telegram from the Secretary of State for India, dated 5th September 1876.
From Secretary, Bengal Bonded Warehouse Association, dated 13th December 1876.
„ Officiating Secretary, Government of Bengal, No. 92, dated 15th January 1877, and enclosures.
„ Commissioner of Orissa, No. 1161, dated 13th January 1877.
„ Chief Secretary to Government, Bombay, No. 845, dated 10th February 1877, and enclosures.
„ Acting Assistant Secretary to the Government of Bengal, No. 304, dated 6th February 1877, and enclosures.
„ Secretary to the Chief Commissioner, British Burma, No. $\frac{158}{17}$, dated 3rd February 1877, and enclosures.
„ Officiating Secretary to the Board of Revenue, Lower Provinces, No. 69B, dated 1st February 1877.
„ Chairman, Trades Association, Madras, dated 7th February 1877, and enclosures.
„ Chief Secretary to Government, Bombay, No. 1084, dated 20th February 1877, and enclosures.
„ Secretary to Government, Madras, No. 1021, dated 10th March 1877, and enclosures.
Demi-official letter from L. Reid, Esq., Commissioner of Customs, Bombay, dated 24th March 1877, and enclosures.
Memorandum by Officiating Secretary to Board of Revenue, Lower Provinces, No. 600 B, dated 25th August 1877, and enclosures.
Note by the Hon'ble T. C. Hope, dated 4th October 1877.

2. In accordance with the suggestion of the Committee appointed by the Bombay Government, the definition of "Customs-port" has been made (section 3, clauses (*d*) and (*e*)) to include, and that of "Foreign Port" to exclude, ports not in British India which are entitled to be treated as British Customs-ports.

3. The existing Act limits the privileges of coasting vessels to vessels which do not touch at any intermediate foreign port. But this has been found difficult of application, especially on the Western Coast, where foreign ports are numerous, and the limitation is illegally waived in the case of coasting steamers. But the Bombay Committee point out that all craft ought to be treated alike, and we think that, where there is danger of smuggling, special restrictions may be imposed on particular classes of goods under the powers of chapter XIII. The definition (section 3, clause (*g*)) has therefore been expanded.

4. We have also enlarged the definition of "Master" (section 3, clause (*h*)) so as to include a ship's agent appointed in writing by the master to be responsible on his behalf, when such appointment is approved by the Customs-collector.

5. In consequence of representations received from the Chief Commissioner of British Burma of the expediency of legalising coasting trade with petty ports which it would not pay to constitute Customs-ports, a provision has been inserted in section 11, with the concurrence of the Department of Revenue, Agriculture and Commerce, enabling the Local Government to recognize such ports for the purposes of the coasting trade only.

6. In accordance with a recommendation of the Bombay Committee, a clause framed on the model of the English Customs Act of 1876, section 153, has been added to section 17 of the Bill, prohibiting the importation or exportation of articles of foreign manufacture bearing names, marks or brands being, or purporting to be, those of manufacturers resident in the United Kingdom or British India.

7. By a little condensation, the whole of chapter X of the Bill as introduced has been dispensed with. The privilege of transhipment has been extended to sailing vessels.

8. By section 38, an owner not having sufficient information regarding any goods has been allowed, as suggested by the Bengal Board of Revenue, to deposit them temporarily in a warehouse.

The term "real value" has also been defined, as the want of a definition has been much felt. The obligation to declare real value has likewise, for statistical purposes, been extended to all goods, whether dutiable or not.

9. The third clause of section 39, by which it is provided that undervalued goods retained for the use of Government shall be sold by public auction, has given rise to some difference of opinion, some authorities advocating the substitution of a general power to dispose of the goods for the benefit of Government, in accordance with the English Customs Act of 1853. We have reserved this question for further consideration after enquiry as to the alleged rarity of cases in which difficulty or loss to Government is occasioned by the present provision.

10. Sections 45 and 46 (33 and 34 of the Bill as introduced) have also elicited wide differences of opinion between different mercantile and Custom-house authorities. The former section is identical in principle with the existing English law: section 20 of the Customs Consolidation Act, 1876, runs as follows:—

"In the event of any increase, decrease, or repeal of duties of customs chargeable upon any goods or commodities after the making of any contract or agreement for the sale or delivery of such goods duty paid, it shall be lawful for the seller, in case such increase shall accrue before the clearance and delivery from the warehouse of such goods at such increased

duty, and after payment thereof, to add so much money to the contract-price as will be equivalent to such increase of duty, and he shall be entitled to be paid and to sue for and recover the same; and it shall be lawful for the purchaser under any such contract or agreement, in case such decrease or repeal shall take effect before the clearance and delivery from the warehouse at such decreased duty, or free of duty, as the case may be, to deduct so much money from the contract-price as will be equivalent to such decrease of duty or repealed duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

The latter section is in harmony with Mr. Wilson's financial statement of February 18th, 1860, and the consequent section 2 of Act X of 1860, as also with the notification of the Government of India, No. 3180, dated 3rd September 1875. Both sections originated in the memorials and representations which the Government of India is in the habit of receiving whenever a change of tariff takes place. We have added another illustration to section 45, to express its scope more fully; but we have left the general question of the retention of both sections open for discussion in Calcutta.

11. We have omitted from section 50 (121 of the Bill as introduced) the last clause, which followed the existing law, as it has been justly pointed out by Mr. Lane, the Collector of Customs at Calcutta, that it is unreasonable to refuse drawback on ships'-stores, and both inconsistent with the permission to export from bond (section 30) and at variance with the English Act.

12. In deference to the unanimous opinion expressed in the reports, the rate of drawback has been re-entered in section 50 at the existing rate of seven-eighths, instead of three-fourths, to which it was raised in the Bill as introduced.

13. In accordance with representations received from the Bombay Committee and other quarters, we have, with the concurrence of the Department of Revenue, Agriculture and Commerce, extended to the Indian Marine and Marine Survey (section 56) the privileges with regard to wine, provisions and stores which have hitherto been confined to officers and ships of Her Majesty's Navy. The privilege has likewise been extended in all cases to spirits.

14. In order to meet the case of the foreign ports of Native States on the Western Coast, which are not surrounded by customs preventive lines, the existing practice of refusing drawback on exports to such ports has been legalised (section 57) in the form of empowering the Governor General in Council to prohibit drawback in the case of any particular port. This is in accordance with the Bombay Committee's suggestion.

15. In accordance with the existing practice at Bombay, which originated in section 35 of Act I of 1852, the Customs-collector has been empowered (section 58) to reject, if he sees fit, any claim for drawback amounting to less than ten rupees. The Bombay Municipal Act provides similarly regarding petty refunds of town-duty.

16. Section 44 of the Bill as introduced was inserted in consequence of a long correspondence which arose in Bombay with the Chamber of Commerce out of the practice prevailing there of masters entering in the manifest the names of the ships' agents as consignees of the cargo, and the true consignees complaining of delay in receiving their goods and of the departure of the vessel in the interim. The Bombay Committee, however, now find that the section will not meet the case, and, though it is not objected to by Bengal and Madras (chiefly, it would seem, owing to difference of circumstances), we think it better to omit it, and to obviate the difficulty partly by an addition to section 71, permitting port-clearance to be refused except on security for the clearance of the import-manifest, and partly by new provisions in chapter IX, which will be explained hereafter.

17. *Section 64* is new, to adapt the law to actual circumstances, under which the manifest sometimes arrives by overland mail before the vessel itself, in which case the saving of time by commencing the preliminaries for her discharge is desirable.

18. *Section 71.*—The Madras Committee recommend the addition of a clause authorising the refusal of port-clearance to any vessel the master or agents of which have not made all reasonable endeavours to land all the cargo for the port. Formerly, they say, they could stop a vessel through the High Court, or bring an action for overcarrying their goods; but now canal-steamers protect themselves by a clause in the bill of lading. The Madras Trades Association support this recommendation by a letter (Paper No. 9) giving details of packages actually overcarried. On the other hand, overcarrying is defended on the grounds, 1st, that boats are scarce at Madras; 2nd, that boatwork is there prohibited after sundown; 3rd, that mail-contracts prevent steamers making long delays. We have reserved this question for discussion at Calcutta.

19. *Section 75.*—In accordance with the recommendations of the Calcutta Committee and the Bengal Board, the periods of unloading and loading have been combined; but the aggregate of 30 days has been reduced to 20. The additional periods for loading and unloading have also each been reduced to one day for every 100 tons instead of every 50. This will still leave a vessel of 1,200 tons, for instance, 32 days, which is ample. Sections 50 and 108 of the Bill as introduced have been consolidated into this section, and words have been inserted to prevent more than one officer at a time being claimed as of right when, from smallness of establishment or press of work, extra officers may not be available.

20. *Sections 76 and 77.*—Special provision has been made in the concluding clauses for goods being water-borne from places not duly appointed as wharves, and without the presence or authority of an officer of customs, as also without boat-notes, in order to meet the circumstances of Calcutta, as represented by the Board of Revenue. In section 77, the suggestions from Burma have also been attended to, and sections 61 and 125 of Act VI of 1863 (Bill 1, sections 53, 58 and 111) have been amalgamated.

21. *Sections 97 and 98.*—These are the new sections inserted, and referred to above in paragraph 16, in order to permit the prompt discharge of cargo where there is urgent

necessity, or there are special facilities, for it. We are disposed to consider that a provision of this nature is the best for meeting the difficulties now felt and reconciling the conflicting interests of ship-owners and owners or consignees of goods. The latter are protected from double charges for agency. The sections, however, are tentative, and may require amendment after they have been scrutinized by the Trade and the Customs Departments at Bombay and Calcutta.

22. Adverting to section 106, we have altered the form of the bond, in accordance with a suggestion from Madras, so as to allow of enforcement in a District Court instead of in the High Court, though this was really not indispensable, since any of the forms may, even under the existing Act, be modified by the Chief Customs Authority.

23. *Section 107.*—In accordance with a suggestion from British Burma, arising out of an opinion by the Advocate General, a clause has been added to make it clear that a fresh bond is not indispensable on every fresh removal of the goods while in warehouse.

24. *Section 116.*—Permission to bottle off wines and spirits has been added, in conformity with the English Act and suggestions from Bengal.

25. *Section 132.*—This section has been modified in accordance with suggestions from Bengal, so as to place recovery of rent on the same footing as recovery of duty.

26. *Section 137* has been modified to suit Calcutta, in the same way as sections 76 and 77 (*vide* supra, paragraph 20).

27. *Section 140.*—In order to obtain correct statistics of imports and exports, it has been made compulsory on the owner of goods short-shipped or re-landed to give information of the fact to the Custom-house. This is in accordance with recommendations received and with the English law regarding short shipments.

28. Chapter XVIII of the Bill as introduced, which was entitled "Offences and Penalties," has elicited some differences of opinion as to what was the best position in the Act for such matters. We have now, in the first place, transferred to a separate chapter everything relating to procedure. With regard to the offences and penalties themselves, we are of opinion that the chief thing to be considered is the convenience of the mercantile and nautical public rather than that of adjudicating officers. Anybody who wishes honestly to know what the law requires him to do, will find his study of the existing Act perpetually interrupted by the long offence and penalty clauses, the terrors of which it cannot be indispensable to place in close juxtaposition with every injunction or obligation.

We have now recast the chapter (XIV) in tabular form, shewing in three columns the offence, the section to which it has reference, and the penalty, and trust that this will meet the views of all parties. To the adjudicating officer it will, we believe, not be inconvenient; to the public it will be a relief not to have every section burdened with unnecessary matter, while Custom-house officials may, if they wish, have the chapter printed separately to hand to every master on arrival, or to frame and post up in conspicuous places at the Custom-house and wharves.

29. We have made numerous changes in the phraseology of the Bill throughout, to secure both clearness and brevity. Considerable alterations have also been made in the arrangement of chapters and sections, with the view both of condensation and of bringing analogous provisions together and securing a practical sequence. The chapters now stand as follows:—

Chapter I.—Preliminary.
" II.—Appointment of officers in the Department of Customs.
" III.—Appointment of ports, wharves, custom-houses, warehouses and boarding and landing-stations.
" IV.—Restrictions and prohibitions of importation and exportation.
" V.—Levy of, and exemption from, customs-duties.
" VI.—Drawback.
" VII.—Arrival and departure of vessels.
" VIII.—General provisions affecting vessels in port, &c.
" IX.—Importation or discharge.
" X.—Warehousing.
" XI.—Exportation or shipment, and re-landing.
" XII.—Spirits.
" XIII.—Coasting trade.
" XIV.—Offences and penalties.
" XV.—Procedure relating to offences, appeals, &c.
" XVI.—Miscellaneous.

30. We propose to consider the Bill further in Calcutta, and recommend that it be in the meantime published in the *Gazette of India* for general information.

SIMLA;
The 20th October 1877.

T. C. HOPE.
WHITLEY STOKES.
F. R. COCKERELL.

No. II.

SEA CUSTOMS BILL, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
2. Repeal of enactments.
3. Interpretation.

CHAPTER II.

APPOINTMENT OF OFFICERS OF CUSTOMS, &c.

4. Local Government to appoint necessary officers.
Suspension and dismissal of such officers.
5. Local Government may delegate its powers under section 4.
Suspension and dismissal of subordinate officers.
6. Collector of District to perform duties of Customs-collector, where there is no separate Customs-collector.
7. Making and publishing of rules.
8. Appeals how and by whom to be decided.
9. Deposit, pending appeal, of duty demanded.
10. Customs-officers exempted from service on any jury or inquest or as assessors.

CHAPTER III.

APPOINTMENT OF PORTS, WHARVES, CUSTOM-HOUSES, WAREHOUSES AND BOARDING AND LANDING-STATIONS.

11. Power to appoint Ports, Wharves, Custom-houses, Warehouses and Boarding and Landing-stations.
12. Power to declare that an Indian Port not in British India shall be regarded as a Customs-port for certain purposes.
13. Power to declare Warehousing Ports.
14. Appointment of public Warehouses.
15. Power to license private Warehouses.
Revocation of license.
Form of application for license.
16. Stations for Customs-officers to board and also land from ship.

CHAPTER IV.

PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

17. Prohibitions and restrictions.
18. Importation without license of arms and ammunition prohibited.
Proviso.
19. Governor General may prohibit or restrict importation or exportation of goods.
20. Importation and exportation.

CHAPTER V.

LEVY OF, AND EXEMPTION FROM, CUSTOMS-DUTIES.

21. Import-duties.
22. Export-duties.
23. No duties on goods carried from one Customs-port to another.
Proviso.

SECTIONS.
24. Power to fix values of dutiable goods.
25. Power to exempt from Customs-duties.
Power to authorize, in special cases, exemption from payment of duty.
26. Baggage in actual use.
27. Reimported articles of country-produce dutiable in certain cases
Proviso.
28. Goods derelict and wreck dutiable in certain cases.
29. Duty on opium re-exported by sea.
30. Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported duty-free on certain conditions.

Transhipment.

31. Power to permit transhipment without payment of duty.
Proviso.
32. Rules regulating exercise of power, and transhipment.
33. Entry and warehousing, on arrival, of goods transhipped under section 31, clause 2.
Proviso.
34. Transhipment of stores from one vessel to another of same owner without payment of duty.
35. Officer of Customs to superintend transhipment.
36. Levy of transhipment-fee.
37. Power to prohibit transhipment.

Miscellaneous Provisions.

38. Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.
39. Under-valued goods how dealt with.
40. Duties on goods retained under section 39 for use of Government.
41. Claims to abatement of duty on account of damage how to be treated.
42. Disposal of damaged goods and levy of duty thereon.
43. Date of importation how determined.
44. Date of exportation how determined.
45. Contracts for sale of goods, duty on which is raised or lowered before performance.
46. Duty leviable on sea-borne goods, duty on which has been altered during transit.
47. Payment of duties short-levied or erroneously refunded.
48. No refund of charges erroneously levied or paid, unless application made within three months.
49. Dutiable goods may be passed on security for duty.

CHAPTER VI.

DRAWBACK.

50. Amount of drawback allowable on re-export.
Conditions for grant of drawback.
Drawback to be allowed on goods exported to Customs-port and thence to Foreign Port.
Proviso.
51. Drawback on exportation of spirit.
52. Drawback of duties on wine and spirits allowed for officers of Navy.
53. Persons entering such wine or spirits for drawback to declare name and rank of officer claiming same.

SECTIONS.
54. Transfer of wine or spirits from one Naval officer to another, &c.
55. Provisions and stores for Her Majesty's Navy exempt from duty.
56. Privilege extends to Indian Marine and Marine-survey.
57. Governor General in Council may declare what goods are identifiable, and may prohibit drawback in case of specified Foreign Port.
58. No drawback to be allowed in certain cases.
59. Time to claim and demand payment of drawback.
60. Declaration to be made by parties claiming drawback.

CHAPTER VII.

ARRIVAL AND DEPARTURE OF VESSELS.

61. 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.
62. Delivery of manifest where no place has been so fixed.
63. Description of manifest.
Amendment of errors in manifest.
64. Agent may deliver manifest.
65. Duty of person receiving manifest.
66. Bulk not to be broken until manifest, &c., delivered, and ship entered at Custom-house.
67. Master, if required, to deliver bill of lading, &c., to Customs-collector.
68. No vessel to depart without port-clearance.
69. No Pilot to take charge of any vessel proceeding to sea without production of port-clearance.
70. Master on applying for port-clearance to deliver manifest and certificates.
71. Port-clearance may be refused unless certain conditions are fulfilled.

CHAPTER VIII.

GENERAL PROVISIONS AFFECTING VESSELS IN PORT, &c.

72. Power to depute officer of Customs to board ships.
Proviso.
73. Servant to be received with officer.
Accommodation of officer and servant.
74. Officers of Customs to have free access to every part of ship, and may seal and secure goods.
Customs-collector may authorize search and opening of locks.
75. Period allowed for discharge and shipment of cargo.
Consequence of exceeding same.
Allowance for period during which vessel is laid up.
76. Goods not to be landed, shipped, or water-borne on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.
77. Boat-note.
78. Goods water-borne to be forthwith landed or shipped.
79. Goods not to be landed elsewhere than at appointed wharf or place.

SECTIONS.
80. Power to prohibit plying of unlicensed cargo-boats.
Issue of licenses.
81. Customs-collector may require goods to be weighed or measured on board before landing.
82. Customs-officer may open package and examine goods shipped.
83. Customs-collector may take samples of goods.
84. Owner to pay expense incidental to compliance with Custom-house rules.
Fee for landing baggage.
85. No compensation for loss or injury except on proof of neglect or wilful act.
86. Rates of wharfage-fees.
87. Duplicates may be granted and amendments made on payment of fee.
88. Owner to deliver duplicate of bill of entry or shipping-bill, if required.
89. Agents must be duly authorized.
90. Agent to produce authority if required.

CHAPTER IX.

IMPORTATION OR DISCHARGE.

91. Discharge of cargo may commence on receipt of due permission.
92. Portion of import-cargo intended for another port, ship's stores, &c., may be kept on board free of duty.
93. Goods not to leave ship unless entered in manifest.
94. Procedure in respect of goods not landed within time allowed.
Effect of not discharging cargo in any less period specified in bill of lading.
95. Goods may be landed at any time after arrival, with consent.
96. Notice regarding unclaimed packages.
97. Procedure in case of non-payment of duties within four months after entry of vessel.
98. Immediate discharge permitted in certain cases.
99. Goods not cleared within two months from date of landing to be sold.
Disposal of overplus.
Proviso.
100. Entry for home-consumption.

CHAPTER X.

WAREHOUSING.

101. Deposit of goods in warehouse without payment of duty.
102. Warehouse-keeper.
Responsibility of keeper.
103. Chief Customs-Authority to decide where any goods may be deposited in public warehouse, and on what terms.
Table of rates of rent.
104. Form of application for admission of goods into warehouse.
105. No goods to be warehoused unless assessed for Customs-duty.
Saving of re-assessment of warehoused goods on clearance for home-consumption.
106. Bond for duty on goods sought to be warehoused. Form of bond.
107. Terms of bond to be executed.

SECTIONS.
108. Period for which goods may remain warehoused under bond.
When bond for duty on goods in private warehouse may be sued on.
109. Procedure in respect of goods to be warehoused.
110. Packages, &c., to be marked and numbered before admission into warehouse.
111. Goods how warehoused.
112. Warrant to be given every time goods are warehoused.
Form of warrant.
113. Access of Customs-officer to private warehouse.
114. Power to cause packages lodged in warehouse to be opened and examined.
115. Access of owners to warehoused goods.
116. Goods in warehouse may be sorted, repacked, &c., by owner, &c.
117. Power to remit duties on warehoused goods lost or destroyed;
and if goods are damaged, duty to be levied on actual value.
118. Import-duty to be on quantity or value registered at time of importation,
Proviso as to wines, spirits, beer or salt.
119. Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.
120. Public warehouse-keeper, or licensee of private warehouse, answerable for weight or gauge.
Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.
121. Power to remove goods from one warehouse to another in same Port.
122. Bonded goods may be removed from one Port to another.
Procedure.
123. Officers at Port of removal to transmit account of goods to officers at Port of destination.
Owner to execute bond for due arrival, &c.
124. Remover may enter into a general bond.
125. Goods on arrival at Port of destination to be subject to same laws as goods on first importation.
126. Removal of goods to be noted on the bond, with particulars.
127. Goods not to be removed from warehouse, except after application to Customs-collector.
128. Form of application for removal of goods.
Twenty-four hours' notice to be given.
129. On goods being removed improperly or otherwise than for export, &c., full duty to be paid.
130. Procedure on failure to pay duty.
131. Expenses of carriage, packing, &c., to be borne by owners.
132. Payment of rent and warehouse-dues.
In case of failure, goods may be sold, &c.
133. Register of bonds to be kept.
When bonds are to be cancelled and returned to obligee.
134. Duty on warehoused goods to be settled within three years.
135. Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

CHAPTER XI.

EXPORTATION OR SHIPMENT AND RE-LANDING.

SECTIONS.
136. Permission for entry outwards to be obtained before export-cargo is shipped.
137. Exporter to deliver shipping-bill before shipping any goods.
138. On entry outwards, bond to be given for shipping and landing.
139. Additional charge on goods passed for shipment after port-clearance has been granted.
140. Notice of non-shipment or re-landing, and return of duty thereon.
Proviso.
141. Goods re-landed or transhipped from a vessel returning to Port, or putting into another Port.
142. Vessel returning to Port may enter and land goods under import-rules.

CHAPTER XII.

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 from one Customs-port to another, but such spirits may be exported under bond.
149. Duty on spirits exported under bond from one Indian Port to another, how 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.
Decision where no rules or their applicability disputed.

CHAPTER XIII.

COASTING TRADE.

154. Application of Act to coasting vessels.
155. Power to regulate carriage of goods coastwise.
156. Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.
157. Power to require bond before port-clearance is granted.
158. Time for delivery of pass.
159. Goods on coasting vessel, if excisable, not to be unladen without permission.
160. Grant and revocation of general pass.
161. Rules respecting cargo-book to be kept by Masters of coasting vessels.

SECTIONS.
162. Power to prescribe rules for Masters of other coasting vessels.
163. Power to board and examine any coasting vessel.

CHAPTER XIV.

OFFENCES AND PENALTIES.

164. Punishments for offences.
1. For infringing rules made by Chief Customs-Authority.
2. For landing or shipping goods at unauthorized Port, &c.
3. For shipping, landing, concealing, &c., contrary to Act.
4. Vessels in Port with a cargo, and afterwards found in ballast and cargo unaccounted for, liable to confiscation.
5. For Masters of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.
6. For not bringing-to at boarding-station.
7. For vessel removing from place of mooring, or unlading, without due authority.
8. Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.
9. For infringing rules or orders regarding transhipment.
10. For unauthorized declaration as to value of goods.
11. Wine not laden, or unladen without permission, liable to confiscation.
12. Confiscation of goods entered for drawback, which are less in value than the amount of drawback claimed.
13. Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.
14. For proceeding inward beyond fixed place before delivery of manifest.
For omitting to deliver manifest when vessel anchors below reporting-station.
15. For like omission when reporting-station has not been fixed.
16. For Master delivering unsigned or untrue manifest.
17. For Pilot, &c., not receiving manifest.
18. For breaking bulk without permission.
19. For false entry, fraudulent alteration, &c.
20. For attempting to depart without port-clearance.
21. For departing without port-clearance.
22. On Pilot taking charge of vessel without port-clearance.
23. For refusing to receive officer of Customs on board.
24. For disobeying section 73.
25. For Masters resisting search, &c.
26. For lading in absence of Customs-officer.
27. For removing goods contrary to section 76.
28. For sending goods without or in excess of boat-note.
29. For non-receipt or non-delivery or non-signing of boat-note.
30. For not landing goods in accordance with section 78, or for landing, &c., goods contrary to section 79.
31. Goods found in unlicensed cargo-boats may be confiscated.
32. For non-delivery of duplicate bill of entry, &c.
33. For acting as agent without authority.
34. For not being able to account for missing or deficient package, &c.
35. For discharging goods not duly entered in manifest.
36. Goods found concealed liable to confiscation.
37. Goods not agreeing in description and quantity with entry in manifest liable to confiscation or extra duty.
38. For removing goods after landing and before due entry.
39. Goods brought to be passed through Custom-house liable to confiscation in case of discrepancy, misdescription, &c.
40. For misdescription of goods.
41. For taking or passing goods without entry.
42. Prohibited or dutiable goods concealed in baggage.
43. For improper carrying into warehouse.
44. For withholding or removing before examination goods entered to be warehoused.
45. For warehousing goods improperly.
46. For refusing to open private warehouse when duly required.
47. For neglecting to stow goods properly in warehouse.
48. For importer or owner of warehoused goods clandestinely gaining access.
49. For altering warehoused goods.
50. For deficiencies in a private warehouse.
51. For neglecting to produce goods when required.
52. Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.
53. For excess, in private warehouse, over registered quantity.
54. For removing warehoused goods improperly.
55. For taking goods out of warehouse without paying duty.
56. For shipping goods before entry outwards.
57. For shipping goods not in manifest, &c.

SECTIONS.

58. Certain goods if entered in manifest and not shipped, or if relanded without notice, liable to confiscation.
59. For landing at place other than that for which goods have been cleared.
60. For deficiency in goods on which drawback has been paid on board vessel returning to Port, or putting into another Port.
61. For contravening rules relating to spirits.
62. For irregularly re-landing spirituous liquors.
63. For contravention of rules as to coasting trade.
64. For signing false account.
65. For failure to produce certificate.
66. For failure of Master of coasting vessel to deliver pass.
67. For breach of rules as to cargo-book.
68. For failure to keep cargo-book correctly, &c.
69. For breach of rules under section 134.
70. For breach in respect of lading, carrying coastwise, and unlading.
71. For refusal to produce documents.
72. For making false declaration, refusing to answer questions, &c.
73. For possession of smuggled goods.
74. For searching persons on insufficient grounds.
75. Customs-officers, if guilty of breach of duty, how punishable.
76. Customs-officers committing or conniving at frauds, how punishable.
77. For neglect of Police-officer to give notice.
78. Punishment for obstruction to Customs-officers.

165. Tackle, &c., included in confiscation of vessels.
Packages and contents included in confiscation of goods.
Also conveyances and animals used in removal.

CHAPTER XV.

PROCEDURE RELATING TO OFFENCES, APPEALS, &c.

166. Persons may be searched on reasonable suspicion.
167. Persons may, before search, require to be taken before Magistrate, &c.
168. Officers of Customs may stop vessels, carts, &c., and search for goods on reasonable suspicion.
169. Magistrate may issue search-warrant on application.
170. Persons reasonably suspected may be detained.
171. Persons detained to be taken to nearest Magistrate or Customs-collector.
172. Persons taken before Magistrate may be detained or admitted to bail.
173. Person escaping may be afterwards detained.
174. Persons in Her Majesty's Navy, when detained, to be secured on board until warrant procured.
175. Vessels, goods and persons may be seized or detained.
176. Vessels and goods seized how dealt with.
177. Procedure in respect of goods seized on suspicion.
178. When seizure is made, seizing officer to give reason in writing.
179. Adjudication of confiscations and penalties.
180. Local Government may confer like powers on other officers of Customs.
Proviso.
181. Option to pay fine in lieu of confiscation.
182. On confiscation of vessel or goods, property to vest in Her Majesty.
183. Levy of penalty for failure to bring-to when required under section 16.
184. Penalty under Act not to interfere with punishment under other law.
185. Offences not especially provided for how adjudicated.
186. Appeal from subordinate to Chief Customs-Authority.
187. Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs-Authority.
188. Goods on which penalty incurred not to be removed till payment.
Goods of person liable to fine or penalty may be detained.
189. Enforcement of payment of penalty.
190. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.
191. Imprisonment to terminate upon recovery of fine.
192. Or of proportional part of fine.

CHAPTER XVI.

MISCELLANEOUS.

193. Rules to be notified.
194. Notifications made may be cancelled.
195. Remission of duty and compensation to owner in certain cases.
196. Appropriation of penalties, &c., and grant of rewards.
197. Saving of Calcutta Port Commissioners' and Bombay Port Trust Acts.

SCHEDULE.

PART I.—ACTS REPEALED.
PART II.—FORMS.
A. Form of Bond for Import-duty.
B. Form of Bonded Warehouse-warrant.
C. Form of Bond for removal of Spirits from licensed Distillery.
D. Form of Coasting-pass.

A Bill to consolidate and amend the law relating to the levy of Sea Customs-duties.

WHEREAS it is expedient to consolidate and amend the law relating to the levy of Sea Customs-duties; It is enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Sea Customs Act, 1877:" Short title.
And shall come into force on the passing thereof. Commencement.

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 appointments and notifications made, and licenses issued, under Act No. VI of 1863, shall, as far as may be, be deemed to have been respectively made and issued under this Act.

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

(*a*) "Chief Customs-Authority" denotes the person authorized to exercise, subject to the Local Government, the chief control in matters connected with Sea-customs in any place to which this Act applies: "Chief Customs-Authority."

(*b*) "Chief Customs-Officer" denotes the Chief Executive Officer of Sea-customs for any Port to which this Act applies: "Chief Customs-Officer."

(*c*) "Customs-collector" includes every officer of Customs for the time being in separate charge of a Custom-house, or duly authorized to perform all, or any special, duties of an officer so in charge: "Customs-collector."

(*d*) "Customs-port" denotes any Port in British India at which Sea Customs-duties are leviable, and any Foreign Port which has been declared under section 12 to be a Customs-port: "Customs-port."

(*e*) "Foreign Port" includes Aden and any port or place in India not situated in British India, and not declared under section 12 to be a Customs-port: "Foreign Port."

(*f*) "Vessel" includes anything made for the conveyance by water of human beings or property: "Vessel."

(*g*) "Coasting vessel" denotes any vessel proceeding from one Customs-port to another Customs-port, whether touching at any intermediate Foreign Port or not: "Coasting vessel."

(*h*) "Master" includes every person, except a Pilot, having command or charge of any vessel: and also a ship's agent, appointed in writing by the master to be responsible on his behalf when such appointment is approved by the Customs-collector: "Master."

(*i*) "Warehouse" denotes any place 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."

(*j*) "Owner" includes importer, exporter and consignee, and an agent of any of them duly appointed and authorized under this Act. "Owner."

CHAPTER II.

APPOINTMENT OF OFFICERS OF CUSTOMS, &c.

4. The Local Government of every place in which duties of Sea-customs are leviable, shall appoint such persons as it thinks fit to be officers of Customs, and to exercise the powers conferred, and to perform the duties imposed, by this Act on such officers. Local Government to appoint necessary officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him. Suspension and dismissal of such officers.

5. The Local Government may delegate to any officer of Customs all or any of the powers vested in it by section four. Local Government may delegate its powers under section 4.

Every person appointed in exercise of such delegated power may be suspended or dismissed by the officer who appointed him. Suspension and dismissal of subordinate officers.

6. At any place at which there is no Customs-collector, the Collector of the District and the officers subordinate to him may perform all duties required by this Act to be performed by a Customs-collector and other officers of Customs. Collector of District to perform duties of Customs-collector, where there is no separate Customs-collector.

7. The Chief Customs-Authority may from time to time, with the sanction of the Local Government, make rules consistent with this Act for regulating the practice and proceedings of, and the delegation of their duties by, officers of Customs. Making and publishing of rules.

8. If any dispute arises between any officer of Customs and any Master of a vessel, or owner of goods, 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 decide such dispute, subject to an appeal to the Local Government. Appeals how and by whom to be decided.

9. Where the dispute relates to the duty leviable in respect of any goods, the owner of such goods, if dissatisfied with such decision, shall deposit in the hands of the Customs-collector at the Port of importation or exportation, respectively, the amount of duty demanded by the deciding officer, pending the settlement of the matter on appeal. Deposit, pending appeal, of duty demanded.

Upon payment of such deposit and compliance with the provisions of this Act relating to the entry or shipment of such goods, the Customs-

collector shall cause the goods to be delivered to such owner for importation or exportation, as the case may be.

Customs-officers exempted from service on any jury or inquest or as assessors.

10. No Chief Customs-Authority or Chief Customs-Officer, and no other officer of Customs whom such Chief Authority or Chief Officer deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest, or as an assessor.

CHAPTER III.

APPOINTMENT OF PORTS, WHARVES, CUSTOM-HOUSES, WAREHOUSES AND BOARDING AND LANDING-STATIONS.

Power to appoint Ports, Wharves, Custom-houses, warehouses and boarding and landing-stations.

11. 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, and for the landing or shipping of particular classes of goods;

(*d*) declare the limits of any such Wharf;

(*e*) alter the name of any such Port or Wharf.

Every such Port, except Aden, shall be a Customs-port within the meaning of this Act.

The Local Government may also from time to time in like manner declare

(*f*) places to be Ports for the carrying on of coasting trade with Customs-ports, or with any specified Customs-ports, and for no other purpose;

(*g*) what shall, for the purposes of this Act, be deemed to be a Custom-house, and the limits thereof.

Power to declare that an Indian Port not in British India shall be regarded as a Customs-port for certain purposes.

12. The Governor General in Council may from time to time declare, by notification in the *Gazette of India*, that any Foreign Port shall, with such limitations and on such conditions (if any) as he thinks fit, be a Customs-port for the purposes of this Act, in so far as the same is capable of being applied to such Port.

Power to declare Warehousing Ports.

13. The Local Government may from time to time declare, by notification in the official Gazette, that any Customs-port shall be a Warehousing Port for the purposes of this Act.

Appointment of public Warehouses.

14. At any Warehousing Port, the Chief Customs-Authority may from time to time appoint public Warehouses wherein dutiable goods may be deposited without payment of duty on the first importation thereof.

Power to license private warehouses.

15. At any Warehousing Port, the Chief Customs-Officer may from time to time license private warehouses wherein dutiable goods may be deposited without payment of duty on the first importation thereof.

Revocation of license.

Every license for a private warehouse so granted may, unless it be otherwise provided in the license, be revoked after one month's notice by the Chief Customs-Officer, and may be cancelled on conviction of the licensee of any offence under this Act relating to warehouses.

Form of application for license.

Every application for a license for a private warehouse shall be in writing, and shall be drawn up in such form as is from time to time prescribed by the Chief Customs-Authority, and shall be signed by the applicant.

Stations for Customs-officers to board and also land from ship.

16. 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, unless separate provision therefor has been made under the Indian Ports Act, 1875, direct at what particular place in any such Port vessels, not brought into Port by pilots, shall be required to anchor or moor.

CHAPTER IV.

PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

Prohibitions and restrictions.

17. 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 a notice in writing that such copyright subsists, and a statement of the date on which it will expire:

(*b*) counterfeit coin:

(*c*) any indecent or obscene book, pamphlet, paper, drawing, painting, representation, figure or article:

(*d*) articles of foreign manufacture bearing any names, brands or marks being, or purporting to be, the names, brands or marks of manufacturers resident in the United Kingdom or British India.

Importation without license of arms and ammunition prohibited.

18. The importation into British India of arms or ammunition, except under a license from the Governor General in Council, or from some officer authorized in that behalf by the said Governor General in Council, or otherwise in accordance with any law for the time being in force, is prohibited.

Proviso.

Nothing in this section shall apply to rifles, guns, pistols, 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.

19. 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.

20. It shall be lawful to import into, or to export from, any place declared under section 11 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 by any notification of the Governor General in Council, for the time being in force.

CHAPTER V.

LEVY OF, AND EXEMPTION FROM, CUSTOMS-DUTIES.

Import-duties.

21. Customs-duties shall be levied on such goods imported by sea into any Customs-port from any Foreign Port, at such rates, and with such exemptions, as may be prescribed by any law for the time being in force.

Export-duties.

22. Customs-duties shall be levied on such goods exported by sea from any Customs-port to any Foreign Port, 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 Customs-port to another.

23. No Customs-duties shall be levied on goods carried by sea from any Customs-port to any other Customs-port:

Proviso.

Provided that nothing in this section shall apply

to opium, salt or spirits; or

to goods brought from any Foreign Port 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 fix values of dutiable goods.

24. 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 tariff-value of any goods exported or imported by sea on which Customs-duties are by law imposed.

Power to exempt from Customs-duties.

25. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt any goods imported into, or exported from, British India, or into or from any specified Port or place therein, from the whole or any part of the Customs-duties leviable thereon under any law for the time being in force.

Power to authorize, in special cases, exemption from payment of duty.

The Chief Customs-Authority may, by special order in each case, exempt from the payment of duty, under stated circumstances of an exceptional nature, any goods on which Customs-duties are leviable by any law for the time being in force.

Baggage in actual use.

26. The Customs-collector may, subject to any general rules relating to the landing and shipping of passengers' baggage and the passing of the same through the Custom-house, which may be made under section 7, pass free of duty any baggage in actual use, and for this purpose may determine, subject to any such rules, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

Re-imported articles of country-produce dutiable in certain cases.

27. If goods produced or manufactured in British India be imported into any Customs-port from any Foreign Port, such goods shall be liable to all the duties, conditions and restrictions, if any, to which goods of the like kind and value not so produced or manufactured 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 Customs-collector that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be admitted without payment of duty.

Goods imported, for which any drawback of excise has been received on exportation, shall be subjected to payment of duty, unless the Chief Customs-Authority in any particular case otherwise directs by special order.

Goods derelict and wreck dutiable in certain cases.

28. All goods derelict, jetsam, flotsam and wreck, brought or coming into any Customs-port, shall at all times be subject to the same duties, if any, to which goods of the like kind are subject on importation at such Port, unless it be shown to the satisfaction of the Customs-collector, that such goods are the produce or manufacture of any place, from which they are entitled to be admitted duty-free.

Duty on opium re-exported by sea.

29. Opium imported by sea into any Customs-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.

Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported duty-free on certain conditions.

30. Provisions and other ship's stores warehoused at the time of importation may be exported without payment of duty for use on board of any vessel proceeding directly to a Foreign Port, whether such Port be or be not the Port of ultimate destination.

Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port, may also be exported free of duty, whether of customs or excise, in such quantities as the Customs-collector 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 so shipped on any vessel not going to a Foreign Port, or going on a voyage of less than thirty days' probable duration.

Transhipment.

Power to permit transhipment without payment of duty.

31. In the Ports of Calcutta, Madras, Bombay, Kárwár, Karáchi, Aden, Rangoon, Maulmain, Akyab, Chittagong, and such other Customs-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 Customs-Officer may, on application of the owner of any goods imported into such Port, grant leave to tranship the same without payment of duty, if any be leviable, 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.

In any Customs-port other than a Port in which the preceding clause may from time to time be in force, the Customs-collector may, on

application of such owner, grant leave for transhipment without payment of duty, if any be leviable, at such Port; provided that, where the goods so transhipped are dutiable, and are to be removed to some other Customs-port, the owner 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 such Customs-collector directs:

Proviso.

Provided that such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to some other Customs or Foreign Port.

Rules regulating exercise of power, and transhipment.

32. The power conferred by section 31 shall be exercised, and the transhipment shall be performed, subject to such rules as may from time to time be made by the Local Government.

Entry and warehousing, on arrival, of goods transhipped under section 31, clause 2.

33. All goods transhipped under the second clause of section 31 for removal to a Customs-port shall thereupon be treated in all respects as warehoused goods, and 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, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last-mentioned goods:

Proviso.

Provided that, if on the arrival of the said goods at such Port, the owner desires forthwith to export the same by sea to some Foreign Port, or to pay duty thereon for home-consumption, without actually warehousing them, the Customs-collector at such Port may, after all the formalities of entering and examining such goods for re-warehousing have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home-consumption, upon payment of the duty thereon, in like manner as if such goods had been actually warehoused. All goods so exported, or on which duty has been so paid, shall be deemed to have been duly cleared from the warehouse.

Transhipment of stores from one vessel to another of same owner without payment of duty.

34. If two or more vessels belonging wholly or in greater part to the same owner be at any Customs-port at the same time, any provisions and other ship's stores in use or ordinarily shipped for use on board may, at the discretion of the Customs-collector, be transhipped from one such vessel to any other such vessel without payment of import-duty.

Officer of Customs to superintend transhipment.

35. An officer of Customs shall, in every case, be deputed to superintend the removal of transhipped goods from vessel to vessel.

Levy of transhipment-fee.

36. 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 rules as the Local Government, with the previous sanction of the Governor General in Council, may from time to time make by notification in the official Gazette.

Power to prohibit transhipment.

37. The Governor General in Council may from time to time, by notification 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.

Miscellaneous Provisions.

Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.

38. On the importation into, or exportation from, any Customs-port of any goods, whether liable to duty or not, the owner of such goods shall, in his bill of entry or shipping-bill, state their real value to the best of his knowledge and belief, and shall subscribe a declaration of the truth of such value at the foot of such bill.

In case of doubt, the Customs-collector may require any such owner or any other person in possession of any invoice, broker's note, policy of insurance or other document, whereby the real 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:

Provided that, if the owner makes a declaration before the Customs-collector to the effect that he is unable, from want of full information, to state the real value or contents of any case, package or parcel of goods, then the Customs-collector shall permit him, previous to the entry thereof (1) to open such case, package or parcel, and examine the contents in presence of an officer of Customs, or (2) to deposit such case, package or parcel in a public warehouse, pending production of such information.

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.

For the purposes of this section the real value shall be deemed to be—

(*a*) 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: or,

(*b*) where such price is not ascertainable, the estimated cost at which goods of the like kind and quality could be laid down at such place.

Nothing in this section applies to opium, salt or spirits.

Under-valued goods how dealt with.

39. 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 owner of the goods of their detention, and of the value thereof as estimated by him; and the Customs-collector 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 payment of duty charged according to the entry of such owner, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Customs-collector shall cause the full amount stated in the bill as their real value to be paid to the owner 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, or some mercantile newspaper circulating in the place.

If the proceeds arising from such sale shall exceed the sum paid to the owner, 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 or error, from permitting the owner of 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 39 for use of Government.

40. When goods are retained under section 39 for the use of Government, the duties payable thereon shall in no case be levied from the owner.

Claims to abatement of duty on account of damage how to be treated.

41. No claim for any abatement or refund of duty on account of damage alleged to have been sustained before delivery of the bill of 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 Customs-collector appoints for the purpose.

Disposal of damaged goods and levy of duty thereon.

42. 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 local newspaper, be sold by public auction at such time (within thirty days from the date of delivery of the bill of entry), and at such place, as the Customs-collector appoints.

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 have 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.

Date of importation how determined.

43. 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 is necessary to determine the exact date on which an importation of goods had effect,

such date shall be that on which the goods were actually entered for home-consumption at the Custom-house.

For the purposes of this section goods shall be deemed to be entered when the bill of entry thereof is delivered to the Customs-collector.

Date of exportation how determined.

44. If, in like manner, it is necessary to determine the exact date on which an exportation of goods had effect, such date shall 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.

45. 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 Madras, contracts with B, a resident there, to procure and deliver to him within one year a thousand gallons of champagne at Rs. 25 per gallon, duty paid. Subsequently, and before the contract is performed, the duty is raised from Rs. 1-8 to Rs. 2-8 per gallon. A is entitled to be paid at Rs. 26 per gallon instead of Rs. 25.

(*c*). 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 and 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.

46. 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 was 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. Transit shall be deemed to have commenced on the grant of port-clearance.

Payment of duties short-levied or erroneously refunded.

47. When Customs-duties or charges have been short-levied through inadvertence, error or misconstruction on the part of the officers of Customs,

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 three months from the date of the first assessment or making of the refund;

and the Customs-collector may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless application made within three months.

48. No Customs-duties or charges which have been paid, and of which repayment, wholly or in part, is claimed in consequence of the same having been paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within three months from the date of such payment.

Dutiable goods may be passed on security for duty.

49. No dutiable goods shall be passed for home-consumption unless the owner previously either pays the customs-duties leviable thereon, or furnishes security, to the satisfaction of the Customs-collector, for the payment of the same.

CHAPTER VI.

DRAWBACK.

Amount of drawback allowable on re-export.

50. Upon the re-export by sea to any Foreign Port, of any goods, except salt or opium, capable of being easily identified, imported by sea into any Customs-port from any Foreign Port, and upon which duties of Customs have been paid on importation, seven-eighths of such duty shall, except as otherwise provided in this chapter, be repaid as drawback:

Conditions for grant of drawback.

Provided that, in every such case, the goods be identified to the satisfaction of the Customs-collector at such Customs-port, and that the re-export be made within two years from the date of importation, as shown by the records of the Custom-house, or within such extended term as the Chief Customs-Authority, on sufficient cause being shown, in any case determines.

Drawback to be allowed on goods exported to Customs-port and thence to Foreign Port.

Drawback shall be allowed upon goods which, after having been charged with duty at one Customs-port and thence exported to another, are re-exported by sea to a Foreign Port:

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.

Drawback on exportation of spirit.

51. 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.

Drawback of duties on wine and spirits allowed for officers of Navy.

52. A drawback of the whole of the Customs-duties shall be allowed on wine and spirits 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 and spirits have been warehoused without payment of duty on the first entry thereof.

The quantity of wine and spirits on which drawback may be so allowed in any one year for the use of such officers shall not exceed the quantities hereinafter allowed for each such officer respectively; 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 or spirits for drawback to declare name and rank of officer claiming same.

53. Every person clearing and claiming drawback for wine or spirits, as provided in section 52, shall state in the entry the name of the officer for whose use such wine or spirits 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 and spirits shall be delivered into the charge of the officers of Customs deputed on this behalf 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 and spirits into his charge, and any such officer of Customs has certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine or spirits from one Naval officer to another, &c.

54. The Customs-collector may permit the transfer of any such wine or spirits from one Naval officer to another Naval officer on board of the same, or of any other such vessel, as part of his authorized quantity;

or may permit the transhipment of any such wine or spirits from one vessel to another for the use of the same Naval officer;

or the re-landing and warehousing of any such wine or spirits for future re-shipment.

The Customs-collector may also receive back the duties for any such wine or spirits, and allow the same to be cleared for home-consumption.

Provisions and stores for Her Majesty's Navy exempt from duty.

55. Provisions and other ship's stores for the use of Her Majesty's Navy may, in like manner, be transferred, transhipped or relanded and warehoused, 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 an 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.

Privilege extends to Indian Marine and Marine-survey.

56. Sections 52, 53 and 54 apply to officers of Her Majesty's Indian Marine and Marine-survey on board of any of the ships of such Marine or Survey proceeding to any port out of India, and section 55 applies to provisions and stores for the use of such Marine or Survey.

Governor General in Council may declare what goods are identifiable, and may prohibit drawback in case of specified Foreign Port.

57. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*a*) declare what goods shall, for the purpose of this chapter, be deemed to be capable of being easily identified;

(*b*) prohibit repayment as drawback upon the re-exportation of goods to any specified Foreign Port.

No drawback to be allowed in certain cases.

58. No drawback shall be allowed—

(*a*) upon goods not included in the export-manifest, or

(*b*) upon goods exported from one Customs-port to another, or

(*c*) where the goods to be exported are of less value than the amount of drawback claimed, or

(*d*) where the claim is for drawback amounting to less then ten rupees, and the Customs-collector thinks fit to reject it.

Time to claim and demand payment of drawback.

59. No drawback shall be allowed upon any goods re-exported from any Customs-port unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within six months 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.

Declaration to be made by parties claiming drawback.

60. 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.

CHAPTER VII.

ARRIVAL AND DEPARTURE OF VESSELS.

Power to fix places beyond which inward-bound vessels are not to proceed until manifest delivered.

61. The Local Government may, by notification in the official Gazette, fix a place in any river or Port, beyond which no vessel, whether laden or in ballast, arriving from any Foreign Port, shall pass until the Master thereof has delivered to the Pilot, officer of Customs or other person duly authorized to receive the same, a manifest as described in section 63.

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 remains outside or below the place so fixed, such Master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver such manifest to the Pilot, officer of Customs or other person authorized to receive the same.

Delivery of manifest where no place has been so fixed.

62. If any vessel, coming from any Foreign Port, arrives at any Customs-port in which a place has not been so fixed, the Master of such vessel shall, within twenty-four hours after anchoring, deliver a manifest to the Pilot, officer of Customs, or other person authorized to receive the same.

Description of manifest.

63. Every manifest shall be signed by the Master, and shall contain a true specification of all goods imported in such vessel, comprising such particulars, and made out in such form, as the Chief Customs-Authority may from time to time direct.

Amendment of errors in manifest.

The Customs-collector may permit the Master 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 be discretionary with such Customs-collector; 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.

Agent may deliver manifest.

64. Nothing contained in section 61, 62 or 63 shall prevent the delivery of the manifest, previous to the arrival of the vessel, by an agent duly appointed and approved, as defined in section 3, clause (*h*), of this Act.

Duty of person receiving manifest.

65. The Pilot, officer or other person so receiving the manifest shall countersign the same and enter thereon such particulars as the 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.

66. No vessel arriving in any Customs-port from any Foreign Port, 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 Customs-collector, and an order has been given thereon by such officer for the discharge of the cargo.

The Customs-collector 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 a Customs-collector 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.

67. The Master of every vessel arriving from any Foreign Port shall, at the time of applying for entry inwards at any Customs-port, deliver to the Customs-collector, 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 Customs-collector.

68. No vessel, whether laden, partially laden or in ballast, shall depart from any Customs-port until a port-clearance has been granted by the Customs-collector or other officer duly authorized to grant the same.

No vessel to depart without 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.

69. 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.

70. The Master of every vessel intending to leave any Customs-port shall, at the time of applying for port-clearance, deliver to the Customs-collector a manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs-Authority, containing a 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 so deliver such certificates as the Customs-collector acting under the general instructions of such Chief Customs-Authority, requires.

The Customs-collector 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 Customs-collector 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.

71. The Customs-collector may refuse port-clearance to any vessel until

Port-clearance may be refused unless certain conditions are fulfilled.

(*a*) the required manifest and certificates are produced;

(*b*) all Port-dues and other charges and penalties due by such vessel, or by the owner or Master thereof, have been duly paid, or their payment secured by such guarantee, or by a deposit at such rate as such Customs-collector directs;

(*c*) a bond and security for the clearance of the import manifest within a reasonable period have been given by a duly appointed and accepted agent for the Master, the amount of such security and the length of such period being fixed in each case by such Customs-collector.

CHAPTER VIII.

GENERAL PROVISIONS AFFECTING VESSELS IN PORT, &c.

72. The Customs-collector at any Customs-port may at any time depute at his discretion one or more officers of Customs to board any vessel arriving at such Port.

Power to depute officer of Customs to board ships.

Every officer of Customs so sent shall remain on board of such vessel by day and by night unless or until the Customs-collector shall otherwise order:

Provided that the Customs-collector may, on such conditions as he sees fit to impose, permit the discharge of cargo without the presence of an officer of Customs.

Proviso.

73. Whenever an officer of Customs is so deputed on board of any vessel, the Master of such vessel shall be bound to receive on board such officer, and 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.

Servant to be received with officer.

Accommodation of officer and servant.

74. Every officer of Customs so deputed 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 look up, seal, mark, or otherwise secure any goods on board of such vessel.

Officers of Customs to have free access to every part of ship, and may seal and secure goods.

If any box, place or closed receptacle in any such vessel be locked, and the key be withheld, such officer shall report the same to the Customs-collector, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search.

Customs-collector may authorize search and opening of locks.

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 open the same.

75. A period of twenty working days, or such further period as the Customs-collector directs, shall be allowed for the discharge of import-cargo and the shipment of export-cargo on board of every vessel not exceeding six hundred tons.

Period allowed for discharge and shipment of 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 allowed number of working days, or for the services of several such officers (if available) for respective periods not exceeding in the aggregate such allowed number of working days.

If the period occupied in the discharge and shipment of cargo be in excess of twenty working days, together with the additional period (if any) allowed under the second clause of this section, the vessel shall be charged with the expense of the officer of Customs at a rate not

Consequences of exceeding same.

exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

In calculating any period allowed, or any charge made, under this section, due deduction shall 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, is laid up by the withdrawal of the officer of Customs upon application from the Master.

Allowance for period during which vessel is laid up.

76. Except with the written permission of the Customs-collector, no goods, other than passengers' baggage, shall be discharged from any vessel arriving at any Customs-port, or be shipped or water-borne for exportation or for carriage coastwise—

Goods not to be landed, shipped, or water-borne on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.

(*a*) on any Sunday or on any holiday or day on which the discharge of cargo is prohibited by the Chief Customs-Authority;

(*b*) on any day, except between such hours as such Authority from time to time appoints by notification in the official Gazette;

(*c*) without the presence or authority of an officer of Customs:

nor, in the case of goods so shipped or water-borne,

(*d*) from any place in any such Port except a wharf duly appointed for such purpose;

(*e*) before due entry outwards of the exporting vessel and of the goods;

(*f*) before such goods shall have been duly cleared for shipment.

Nothing in this section shall prevent the Chief Customs-Authority from giving, by notification in the official Gazette, general permission for goods to be so shipped or water-borne in any Customs-port from all or any places not duly appointed as wharves, and without the presence or authority of an officer of Customs.

77. When any goods are water-borne for the purpose of being landed from any vessel and warehoused or passed for importation, or 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 for goods to be landed 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, and shall be delivered on arrival to any officer of Customs authorized to receive the same.

Each boat-note for goods to be shipped 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.

The officer of Customs who receives any boat-note of goods landed, and the officer of Customs, Master, or other officer as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the Chief Customs-Authority may from time to time direct.

The Local Government may from time to time suspend the operation of this section in any Customs-port or part thereof, and may cancel such suspension.

78. All goods water-borne for the purpose of being landed and warehoused, or passed for importation, or of being shipped for exportation, shall be so landed or shipped without any unnecessary delay.

Goods water-borne to be forthwith landed or shipped.

79. No goods discharged from any vessel under the authority of an officer of Customs shall be landed, except at a wharf or other place appointed for the landing of such goods.

Goods not to be landed elsewhere than at appointed wharf or place.

No such goods discharged into or loaded in any boat for the purpose of being landed or shipped shall be subsequently transhipped into any other boat without the permission of an officer of Customs.

80. The Local Government may declare with regard to any Customs-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.

Power to prohibit plying of unlicensed cargo-boats.

In any Port with regard to which such notification has been issued, the Chief Officer of Customs or other officer whom the Local Government appoints in this behalf, 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 by notification in the official Gazette.

Issue of licenses.

81. The Customs-collector, 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-collector may require goods to be weighed or measured on board before landing.

82. Any officer of Customs may open any package, and fully examine any goods brought by sea, or shipped or brought for shipment at any Customs-port.

Customs-officer may open package and examine goods shipped.

83. The Customs-collector 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.

Customs-collector may take samples of goods.

Every such sample shall, if the owner so desire, and if it be possible, be restored to him; otherwise it shall be disposed of and accounted for to him as the Customs-collector directs.

84. 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, marking and numbering of goods, where such operations are necessary or permitted,

Owner to pay expense incidental to compliance with Custom-house rules.

and the removing of goods to, and the placing of them in, the proper place of deposit,

shall be performed by or at the expense of the owner of such goods.

Fee for landing baggage.

When any goods, 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.

No compensation for loss or injury except on proof of neglect or wilful act.

85. No owner 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 of any officer of Customs, unless it be proved that such loss or injury was occasioned by the neglect or wilful act of an officer of Customs.

Rates of wharfage-fees.

86. The Chief Customs-Authority may from time to time fix the period after the expiration of which goods left on any Custom-house wharf or other authorized landing place, or part of the Custom-house premises, shall be subject to payment of fees, and the amount of such fees.

Duplicates may be granted and amendments made on payment of fee.

87. A duplicate of any certificate, manifest, bill or other Custom-house document may, on payment of a fee not exceeding ten rupees, be furnished, at the discretion of the Customs-collector, 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.

Owner to deliver duplicate of bill of entry or shipping-bill, if required.

88. Upon the entry or clearance of any goods for importation or exportation, the owner shall, if the Customs-collector so requires, deliver to such officer a duplicate of the bill of entry or shipping-bill thereof.

Agents must be duly authorized.

89. 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 Customs-collector.

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 Customs-Authority, whose decision thereon shall be final.

Agent to produce authority if required.

90. When any person makes application to any officer of Customs for permission to transact any business with him 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 such permission.

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 such clerk, servant or agent to the Customs-collector as empowered to transact his or their business, and deposits with such officer an authority in writing duly signed, authorising such clerk, servant or agent to receive all drawbacks, refunds and other moneys or transact other business on behalf of such person or firm.

CHAPTER IX.

IMPORTATION OR DISCHARGE.

Discharge of cargo may commence on receipt of due permission.

91. Whenever an order or a special pass, permitting any vessel which has arrived in any Customs-port from any Foreign Port to break bulk, has been duly issued under section 66, the discharge of the cargo of such vessel may be proceeded with.

Portion of import-cargo intended for another Port, ship's stores, &c., may be kept on board free of duty.

92. Any portion of an import-cargo intended for another Port, or any ship's stores intended for consumption in Port or on the home-ward voyage, may be declared by the Master of any vessel as not to be landed, and may thereupon, with the special sanction of the Customs-collector, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of duty:

Provided that all such cargo and ship's stores, excepting any ship's stores which may be duly transferred to another ship under section 34, 54 or 55, 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.

The Customs-collector, or any officer deputed by him under section 72, may seal up, or otherwise secure, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

Goods not to leave ship unless entered in manifest.

93. No goods shall be allowed to leave any vessel, unless they be duly entered in the original manifest of such vessel, or in an amended or supplementary manifest duly received under section 63.

Procedure in respect of goods not landed within time allowed.

94. If the owner of any goods (except such as have been declared by the Master as not to be landed), 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 longer period as the bill of lading of such vessel specifies; or

Effect of not discharging cargo in any less period specified in bill of lading.

if any period less 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 owner of such cargo, or part thereof, does not land the same within such specified period; or

if the cargo of any vessel, with the exception of only a small quantity of goods, has been discharged previously to the expiration of the period so appointed or specified, as the case may be,—

the Master of such vessel, or a duly authorized officer of Customs, on his application, may then carry such goods to the Custom-house.

The Customs-collector shall thereupon take charge of and grant receipts for such goods;

and if notice in writing has been given by the Master 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 receives notice in writing that the said charges are paid.

Goods may be landed at any time after arrival, with consent.

95. At any time after the arrival of any vessel, the Customs-collector 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 this Act for the landing of such package or parcel.

Notice regarding unclaimed packages.

96. If any package or parcel carried to the Custom-house under section 95 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 94, 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.

97. If the duties chargeable upon any goods carried to the Custom-house under section 94 or 95, 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 owner of the goods, 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 Customs-collector 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.

Immediate discharge permitted in certain cases.

98. Nothing in sections 93 to 97 inclusive shall prevent the Customs-collector in any Customs-port to which the Local Government, by notification in the official Gazette, declares this section to be applicable, from permitting the Master of any vessel immediately on receipt, under section 66, of an order or special pass, to discharge the cargo of such vessel or any portion thereof—

(*a*) at the Custom-house or any specified landing-place or wharf;

(*b*) at any landing-place or wharf belonging to any Port Commissioners, Port Trust or other duly constituted and responsible public body or company;

(*c*) into the custody of responsible and authorized agents of the ship, if willing to receive the same, for the purpose of landing the same forthwith at the Custom-house or any such landing-place or wharf.

The Customs-collector shall take charge of all goods or cargo so landed, and otherwise proceed in relation thereto as provided in the said sections.

Any such ship's agent so receiving any goods or cargo shall be responsible to pay all claims for damage or short delivery which may be established by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like claimed by any agent or consignee previously constituted by the owner.

Goods not cleared within two months from date of landing to be sold.

99. If any goods be not cleared for home-consumption or for warehouse within two months from the date of landing thereof, or within such further period as the Customs-collector directs, such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall be applied to the payment of duties and other charges to which the same were liable.

Disposal of overplus.

The overplus, if any, shall be paid to the owner of the goods 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.

Entry for home-consumption.

100. The owner of any dutiable goods intended to be delivered for home-consumption on the landing thereof from the importing ship, shall make entry of such goods by delivering to the Customs-collector 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.

The delivery of such bill shall be deemed to have taken place on the date of the first presentation of such bill to an officer of customs duly authorized to receive the same.

The passing of such bill by an officer of customs duly authorized in that behalf shall be sufficient authority for the removal of the goods by the owner.

CHAPTER X.

WAREHOUSING.

101. 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 warehouse appointed or licensed under this Act.

Deposit of goods in warehouse without payment of duty.

102. Every public warehouse appointed under section 14 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 105 and 117 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.

103. 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.

Chief Customs-Authority to decide where any 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.

104. Every application for the admission of goods into any warehouse shall be in writing, and shall be drawn up in such 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.

105. 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 unless assessed for Customs-duty.

Nothing in this section shall

(*a*) preclude the temporary deposit of goods in a public warehouse under section 38; or

Saving of re-assessment of warehoused goods on clearance for home-consumption.

(*b*) 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 43.

106. When an application has been made for the warehousing of any goods, and when such goods have been assessed for duty as directed in section 105, the owner shall execute a bond for the amount of such duty in the Form marked A hereto annexed, or when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-Authority.

Bond for duty on goods sought to be warehoused. Form of bond.

Every such bond shall relate to the duties chargeable on the cargo or portion of the cargo of one vessel only.

107. 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 provisions of this Act in respect to the same.

Every such bond shall, unless the Chief Officer of Customs in any case deems a fresh bond to be necessary, continue in force, notwithstanding their subsequent removal to another warehouse or warehousing port.

108. When any such bond has been executed, in respect of any goods, such goods shall be allowed to be warehoused for a period not exceeding three years, without being liable to import-duty:

Period for which goods may remain warehoused under bond.

Provided that if the license for any private warehouse be withdrawn, every bond executed for duty chargeable on goods deposited in such 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 Customs-collector has given notice of such withdrawal, unless the owner of the goods has in the interval obtained permission for their removal to another warehouse.

When bond for duty on goods in private warehouse may be sued on.

109. When the provisions of sections 104 to 107 inclusive 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.

A pass shall be sent with the goods specifying 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.

On receipt of the goods into the warehouse, the pass shall be examined by the warehouse-keeper, and shall be returned to the Customs-collector. If the pass be found to be correct, the warehouse-keeper shall certify to that effect thereon, and the warehousing of such goods shall be deemed to have been completed.

If the quantity or value of any goods has been erroneously stated on importation, the error may be rectified at any time before the warehousing of the goods is completed.

110. No package, butt, cask or hogshead shall be admitted into any 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.

111. All goods shall be warehoused in the packages, butts, casks or hogsheads in which they have been imported, except as provided in section 116.

Goods how warehoused.

112. Whenever 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 B 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.

Nothing in this section shall, if the Local Government so direct, apply to salt.

113. The Customs-collector 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.

114. The Customs-collector may at any time by order in writing direct any goods or packages lodged in any warehouse to be opened, weighed or otherwise examined; 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 the permission of the Customs-collector; and when any such goods are opened with such permission, the packages shall, if he thinks fit, be again sealed or marked as before.

115. Any owner of goods lodged in a warehouse under this Act, 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, upon application for the purpose being made in writing to the Customs-collector, be deputed to accompany such owner.

Access of owners to warehoused goods.

When an officer of Customs is specially employed to accompany such owner, a sum sufficient to meet the expense thereby incurred shall be paid by such owner to the Customs-collector, and may be required by the Customs-collector to be paid in advance.

116. With the sanction of the Customs-collector, and after such notice given, and under such rules and conditions as the Chief Customs-Authority from time to time prescribes, any owner of goods may, either before or after warehousing,—

Goods in warehouse may be sorted, repacked, &c., by owner, &c.

(*a*) sort, separate, pack and repack any goods, and 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 Customs-collector permits);

(*b*) fill up any casks of wine, spirits or beer from any casks of the same secured in the same warehouse;

(*c*) mix any wines of the same sort secured in the same warehouse, erasing from the cask all import-brands, unless the whole of the wine so mixed be of the same brand;

(*d*) bottle off wine or spirits from any casks;

(*e*) take such samples of goods as may be allowed by the Customs-collector with or without entry, and with or without payment of duty, except such as 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 Customs-collector may, at the request of the owner of such goods, 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.

117. If any goods warehoused, or entered to be warehoused, or 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 lost or destroyed in a private warehouse, notice thereof be given to the Customs-collector within forty-eight hours after the discovery of such loss or destruction.

If goods lodged in a warehouse receive damage through unavoidable accident, they shall be re-assessed 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.

118. The import-duty on all goods warehoused or to be warehoused shall, subject to section 105, clause 3, be assessed 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.

Provided that, if it appear at the time of clearing any wines, spirits, beer or salt from any warehouse that a deficiency not otherwise accounted for 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:

Proviso as to wines, spirits, beer or salt.

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 „	...	12

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.

119. 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

Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.

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 purpose of exemption from the penalty to which the licensee of such warehouse would otherwise be liable under section 164, No. 50, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in section 118.

120. The warehouse-keeper in respect of goods lodged in a public warehouse, and the licensee 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 sections 118 and 119.

Public warehouse-keeper or licensee of private warehouse answerable for weight or gauge.

No owner of goods shall be entitled to claim from the Customs-collector, 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.

121. Any owner of goods warehoused under this Act, may, with the permission of the Chief Customs-Officer, and on such conditions and after giving such security (if any) as such officer directs, remove goods from one warehouse to another warehouse in the same Port.

Power to remove goods from one warehouse to another in same Port.

When any person desires so to remove any goods, he shall make application in such form as the Chief Customs-Authority from time to time prescribes.

122. Goods warehoused 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 owner desires so to remove any goods, he shall apply to the Chief Customs-Officer, stating the particulars of the goods to be removed, and the name of the Port 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.

123. When permission is granted for the removal of any goods from one warehousing Port to another under section 122, an account containing the particulars thereof shall be transmitted by the proper officer of the Port of removal to the proper officer of the Port of destination; and the owner 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 re-warehousing thereof at the Port of destination within such time as the Chief Customs-Authority directs.

Officers at Port of removal to transmit account of goods to officers at Port of destination.

Owner to execute bond for due arrival, &c.

Such bond may be taken by the proper officer, either at the Port of removal or at the Port of destination, as best suits the residence or convenience of the owner.

If such bond is taken at the Port of destination, a certificate thereof, signed by the proper officer of such Port, shall, at the time of the entering of such goods, be produced to the proper officer at the Port 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 of destination within the time allowed for such removal, or are otherwise accounted for to the satisfaction of such officer; nor until the full duty due upon any deficiency of such goods, not so accounted for, has been paid.

124. 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, and for the due arrival and re-warehousing of such goods at the Port of destination within such time as such Authority directs.

Remover may enter into a general bond.

125. Upon the arrival of warehoused goods at the Port 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 are 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.

126. When any warehoused goods are removed from any warehouse, the Customs-collector 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 paid (if any).

127. No goods shall be removed from any warehouse, except after application to the Customs-collector for permission to pass the goods

Goods not to be removed from warehouse, except after application to Customs-collector.

(*a*) for exportation by sea to some Foreign Port; or

(*b*) for home-consumption, in like manner as is prescribed by section 98 for goods entered for home-consumption on the landing thereof; or

(*c*) for removal to another warehouse, as provided in sections 121 to 124 inclusive;

and after grant of such permission.

128. Application to remove goods from any warehouse shall be made in such 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 Customs-collector twenty-four hours before it is intended, so to remove such goods.

Twenty-four hours' notice to be given.

129. If any goods lodged in a warehouse are removed from the warehouse otherwise than for removal to another warehouse, as provided in sections 121 to 124, inclusive, or for exportation by sea to some Foreign Port;

On goods being removed improperly or 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 Customs-collector shall thereupon demand, and the owner of such goods shall forthwith pay, the full amount of 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 121 to 124, inclusive, or for exportation by sea to some Foreign Port, no duty shall be then so demanded.

130. If any owner fails to pay on demand any duty or penalty that falls due on account of goods warehoused under this Act, the Customs-collector may forthwith either proceed upon the bond executed by such owner, or cause such portion as to him seems fit of the warehoused goods on account of which the duty or penalty is due, 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 owner), 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 owner 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 Customs-collector from proceeding against such goods in the manner above provided, for any Customs-duties or penalty due thereon.

131. The expenses of carriage, packing and stowage of goods on their reception into or removal from a warehouse shall, if paid by the Customs-collector or by the warehouse-keeper, be chargeable on the goods, and be defrayed by, and recoverable from, the owner, in like manner as Customs-duties.

Expenses of carriage, packing, &c., to be borne by owners.

132. If goods be lodged in a public warehouse, the owner shall further pay monthly, on receiving a bill or written demand for the same from the Customs-collector or other officer deputed by him in that behalf, the rent and warehouse-dues.

Payment of rent and warehouse-dues.

If any such bill for rent or warehouse-dues be not discharged on demand, the Customs-collector may forthwith proceed to recover the amount in the manner provided in section 130, in the case of failure to pay duty.

In case of failure, goods may be sold, &

133. A register shall be kept of all bonds entered into for Customs-duties on warehoused goods, and entry shall be made in such register of all particulars specified in section 126.

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 a warehouse, or otherwise duly accounted for, and when all charges and penalties which have been incurred on account of such goods have been paid, the Customs-collector shall cancel such bond as discharged in full, and deliver it, so cancelled, to the person who has executed or who is entitled to receive it.

When bonds are to be cancelled and returned to obligee.

134. 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.

Duty on warehoused goods to be settled within three years.

135. 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 XI.

EXPORTATION OR SHIPMENT, AND RE-LANDING.

136. 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 Customs-collector by the Master of such vessel, 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.

137. Unless the Chief Customs-Authority shall, in the case of any Customs-port or wharf, or of any class of goods, otherwise direct by notification in the official Gazette, no goods, except

Exporter to deliver shipping-bill before shipping any goods.

passengers' baggage, shall be shipped or waterborne to be shipped for exportation, until the owner has filled in and delivered to the Customs-collector, or other proper officer, a shipping-bill of such goods in such form as may from time to time be prescribed by the Chief Customs-Authority.

138. Before any warehoused goods or goods subject to excise-duties, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the owner shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Customs-collector 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.

139. 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.

Additional charge on goods passed for shipment after port-clearance has been granted.

Nothing in this section shall apply to any shipment of treasure or opium.

140. If any goods mentioned in a shipping-bill be not shipped, or be shipped and afterwards re-landed, the owner shall give information of such short-shipment or re-landing to the officer in charge of the Custom-house 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. Upon an application being made to the Customs-collector, any 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: Provided that no such refund shall be allowed unless information has been given as above required.

Notice of non-shipment or re-landing, and return of duty thereon.

Proviso.

141. 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 of goods in such vessel, if he desires to land or tranship the same or any portion thereof for re-export, may make application to the Customs-collector.

Goods re-landed or transhipped from a vessel returning to Port, or putting into another Port.

Such officer, if he grant the application, shall thereupon send an officer of Customs to watch the vessel, and to take charge of such goods during such re-landing or transhipment.

Such goods 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 they are lodged and remain under charge of an officer of Customs, in a place appointed by the Customs-collector until the time of re-export, or are transhipped direct under such charge.

All expenses attending such custody shall be borne by the owner.

142. In either of the cases mentioned in section 141, the Master of the vessel or any owner of goods therein, may enter such vessel and land such goods under the rules for the importation of goods.

Vessel returning to Port may enter and land goods under import-rules.

In every such case any export-duty levied shall be refunded to, and any amount paid in drawback shall be recovered from, such owner.

CHAPTER XII.

SPIRITS.

143. The Chief Customs-Authority may from time to time make rules prescribing the conditions on which spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of excise-duty.

Rules for removal of spirits from distillery without payment of duty, and for exportation thereof.

The person so removing any such spirits shall execute a bond with one or more sureties, in the Form marked C hereto annexed, or, when such form is inapplicable or insufficient, in such other form as the said Authority from time to time prescribes, conditioned that duty shall be paid on any portion of such spirits not exported within four months from the date of the bond, or any portion thereof exported to a Port in British India not being a Customs-port, the landing and payment of Customs-duty in respect of which at the Port of destination is not proved 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.

144. Spirits for exportation under bond for the excise-duty shall be taken from the distillery direct to the Custom-house, under passes to be granted for that purpose by the officers of Excise.

Spirits for export to be taken direct from distillery to Custom-house under pass.

145. Spirits brought to the Custom-house for exportation by sea shall, previous to shipment, be gauged and proved by an officer of Customs.

Rules to be observed in exportation of spirits.

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.

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.

Duty to be recovered on any deficiency in spirits under bond.

147. A drawback of excise-duty paid on spirits manufactured in British India after the English method, and exported to any Foreign Port under the provisions of section 138, shall be allowed by the Customs-collector at the Port of exportation:

Drawback of excise-duty on spirits manufactured after English method.

Provided that the exportation be made within one year from the date of payment of such excise-duty, and that the spirits, when brought to the Custom-house, be accompanied by the pass in which such payment is certified.

148. No drawback shall be allowed on spirits exported from any Customs-port to any other Customs-port.

No drawback allowed on spirits exported from one Customs-port to another, but such spirits may be exported under bond.

But spirits manufactured in British India after the English method may, on the conditions and under the rules from time to time prescribed under section 138, be exported from any such Port to any other such Port, under bond for the excise-duty.

Every such bond shall be cancelled on the production by the owner 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.

149. Spirits manufactured in British India after the English method and exported under bond for the excise-duty from any Customs-port to any other Customs-port, shall be chargeable at the Port of importation with Customs-duties at the ordinary rate fixed for duties on spirits of the like kind and strength imported into such Port.

Duty on spirits exported under bond from one Indian Port to another, how adjusted.

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.

Rum-shrub, &c., how to be charged with duty.

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.

May be exported under same rules as spirits.

When any such liquor is removed for exportation without payment of excise-duty, the bond to be executed by the person removing it shall be in the Form marked C hereto annexed, or, when such form is inapplicable or insufficient, in such other form as may from time to time be prescribed by the Chief Customs-Authority.

151. Spirits brought to the Custom-house for exportation under bond for the excise-duty may, on payment of such duty, be removed for local consumption under passes to be granted for that purpose by the officers of Excise.

Spirits intended for exportation may be removed for local consumption.

Credit for every such payment shall be given in discharge of the bond to which it relates.

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.

Conditions of drawback and remission of duty on spirits.

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 Customs-collector.

Re-land of spirits shipped.

153. The Local Government may from time to time make 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 Customs-duties leviable thereon are 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.

In the absence of any such rules, or if any dispute arises as to their applicability, the Chief Customs-Officer 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 XIII.

COASTING TRADE.

154. Nothing in chapters VII, IX, X, XI and XII of this Act affects coasting vessels:

Application of Act to coasting vessels.

Provided that the Governor General in Council may from time to time, by notification in the *Gazette of India*, declare coasting vessels to be affected by the whole, or any specified portions, of the said chapters, or not to be affected by any such portions of the remainder of this Act.

155. The Governor General in Council or the Local Government may from time to time make rules prescribing the conditions on which goods, or any specified class of goods, may be—

Power to regulate carriage of goods coastwise.

(*a*) carried in a coasting vessel, whether shipped at a Foreign Port or at a Customs-port to be so carried;

(*b*) shipped in a coasting vessel before all goods brought in such vessel from a Foreign Port have been unladen;

and may prohibit the conveyance of any specified class of goods generally, or to or between specified Ports.

Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.

156. Before any coasting vessel departs from the Port of lading, an account with a duplicate thereof, in the Form marked D hereto annexed, with such additional particulars (if any) 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 Customs-collector.

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 require bond before port-clearance is granted.

157. The Customs-collector may, for sufficient reason, refuse port-clearance to any vessel declared to be bound to, or about to touch at, any Customs-port, unless the owner or Master gives a bond with sufficient security for the production to the Customs-collector 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.

Time for delivery of pass.

158. 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 Customs duly authorized to receive the same, and he shall note thereon the date of delivery.

Goods on coasting vessel, if excisable, not to be unladen without permission.

159. If any of the goods on board of any coasting vessel be subject to any excise-duty, they shall not be unladen without the permission of the proper officer of Excise.

Grant and revocation of general pass.

160. 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.

Such pass shall be valid throughout India, or for such Ports only as may be specified therein.

Any such general pass may be revoked by notice in writing under the hand of such authority, delivered to the Master or to the owner of such steam-vessel, or to any of the crew on board.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

161. 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.

162. The Governor General in Council or the Local Government may, from time to time, make rules for the guidance of the Masters of all other coasting vessels, as to the matters mentioned in section 161.

Power to board and examine any coasting vessel.

163. 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 Customs-collector may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection.

CHAPTER XIV.

OFFENCES AND PENALTIES.

Punishments for offences.

164. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively:

Offences.	Section of this Act to which offence has reference.	Penalties.
1.—Contravening any rule made by the Chief Customs Authority.	7	Penalty not exceeding five hundred rupees.
2.—If any goods be landed or shipped, 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,	11	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.
3.—If any person ship or land goods, or aid in the shipment or landing of goods, or knowingly keep or conceal, or knowingly permit or procure to be kept or concealed, any goods shipped or landed, or intended to be shipped or landed, contrary to the provisions of this Act; and if any person be found to have been on board of any vessel liable to confiscation under clause 2, 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,	11	such person shall be liable to a penalty not exceeding one thousand rupees.
4.—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 in British India where such vessel lawfully discharged her cargo,	11	such vessel shall be liable to conscation.
5.—If any goods are 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; or if any goods are put, without such authority, out of any tug-steamer or pilot-vessel for the purpose of being put on board of any such outward-bound vessel; or if any goods on which drawback has been granted are put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being re-landed,	11	such goods shall be liable to confiscation, and the Master of such tug-steamer, pilot-vessel or sea-going vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
6.—If any vessel arriving at, or departing from, any Customs-port from any Foreign Port fails, when so required under section 16, 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,	16	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
7.—If any vessel arriving from any Foreign Port 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 Conservator, obtained in accordance with the provisions of the Indian Ports Act, 1875, or other lawful authority, directly to some other place of mooring or unlading, or if any small vessel be not anchored or moored in accordance with any direction of the Chief Customs-Authority under section 16,	16	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees, and the vessel, if not entered, shall not be allowed to enter until the penalty is paid.
8.—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; 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,	19	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.
9.—Contravening any rule regarding the process of transhipment made by the Local Government, or	32	Penalty not exceeding one thousand rupees.
any order relating to transhipment notified by the Governor General in Council,	37	
10.—If any person subscribes or attests any declaration of the real value of any goods upon an application to pass such goods through the Custom-house, not being the owner of such goods, or not having proper and sufficient authority from the owner,	38	such person shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
11.—If any wine, spirits or ship's stores be not laden on board of the ship for which they were intended, or be unladen from such ship without the permission of the proper officer of Customs,	52 to 56	such wine, spirits or ship's stores shall be liable to confiscation.
12.—If any goods be entered for drawback, which are of less value than the amount of the drawback claimed,	58	such goods shall be liable to confiscation.
13.—If any goods, on the entry of which for re-export drawback has been paid, are not duly exported to a Foreign Port, or are unshipped or relanded at any Customs-port (not having been duly relanded or discharged as short-shipped under the care of an officer of customs, or under section 140 or section 141),	60	such goods, together with any vessel used in so unshipping or relanding them, shall be liable to confiscation; and the Master of the vessel from which such goods are so unshipped or relanded, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such unshipping or relanding, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.
14.—If, in any river or Port wherein a place has been fixed under section 61 by the Local Government, the Master of any vessel arriving from a Foreign Port wilfully omits, before passing beyond such place, to deliver to the pilot, officer of customs, or other person duly authorized to receive the same, a manifest; or if the Master of any vessel so arriving which remains outside or below any such fixed place, wilfully omits, for the space of twenty-four hours after anchoring, so to deliver a manifest,	61	such Master shall be liable to a penalty not exceeding one thousand rupees.
15.—If, after any vessel arriving from any Foreign Port has entered any Customs-port in which a place has not been fixed under section 61, the Master of such vessel wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by that section,	62	ditto ditto.
16.—If the manifest delivered by any Master of a vessel under section 61, 62 or 70 be not signed by such Master and in the form and containing the particulars duly required under section 63, 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,	63 & 70	ditto ditto.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
17.—If any pilot, officer of Customs or other person authorized to receive a manifest from any Master of a vessel, refuses so to do, or fails to countersign the same or to enter thereon the particulars referred to in section 65,	65	such pilot, officer of Customs or other person shall be liable to a penalty not exceeding five hundred rupees.
18.—If bulk be broken in any vessel previous to the grant of an order or special pass by the Customs-collector, permitting bulk to be broken,	66	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
19.—If any bill of lading or copy required under section 67 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; 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 Customs-collector,	67	the Master of the vessel shall be liable to a penalty not exceeding one thousand rupees.
20.—If any Master of a vessel attempts to depart without a port-clearance,	68	such Master shall be liable to a penalty not exceeding five hundred rupees.
21.—If any vessel actually departs without a port-clearance,	68	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
22.—If any pilot takes charge of any vessel proceeding to sea, notwithstanding that the Master of such vessel does not produce a port-clearance,	69	such pilot, on conviction before a Magistrate, shall be liable to a penalty not exceeding one thousand rupees.
23.—If any Master of a vessel refuses to receive on board an officer of Customs deputed as provided in section 72,	72	such Master 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 such penalty is paid.
24.—If any Master of a vessel refuses to receive on board one servant of such officer, or to provide such officer and servant with suitable shelter and accommodation, and with a due allowance of fresh water, and with the means of cooking on board,	73	such Master shall, in each such case, be liable to a penalty not exceeding five hundred rupees.
25.—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; or	74 & 92	the Master of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
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,		
26.—If the Master of any vessel laid up under section 75 by the withdrawal of the officer of Customs shall, before application is made by him 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,	75	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..
27.—If any Master of a vessel causes or suffers any goods to be discharged, shipped, or water-borne contrary to any of the provisions of section 76,	76	such Master shall be liable to a penalty not exceeding one thousand rupees; and all goods so discharged, shipped, or water-borne shall be liable to confiscation.
28.—If any goods water-borne for the purpose of being landed from any vessel, and warehoused or passed for importation, or of being shipped for exportation, be found without the boat-note required by section 77; or if any goods are found on board any boat in excess of the bote-note or Custom-house pass, whether such goods are intended to be landed from, or to be shipped on board of, any vessel,	77	such goods shall be liable to confiscation; and the person by whose authority the goods are being landed or shipped, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty leviable on the said goods.
29.—If any Master or officer of a vessel refuses to receive, or fails to sign, or to note the prescribed particulars upon, any boat-note, in accordance with section 77, or receiving the same fails to deliver it when required so to do by any officer of Customs authorized to make such requisition,	77	such Master or officer shall be liable to a penalty not exceeding five hundred rupees.
30.—If any goods water-borne for the purpose of being landed or shipped for importation, are not landed or shipped without unnecessary delay; or if the boat containing such goods be found out of the proper track between the vessel and the wharf or other proper place of landing or shipping, and such deviation be not accounted for to the satisfaction of the officer in charge of the Custom-house; or if any goods are landed or transhipped contrary to the provisions of section 79,	78 & 79	such goods, together with any vessel or boat employed in conveying them, shall be liable to confiscation; and the person by whose authority the goods are water-borne, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of the duty leviable on such goods.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
31.—If, after the issue of a notification under section 80 with regard to any Port, any goods are found within the limits of such Port on board of any boat not duly licensed and registered,	80	such goods, unless they are covered by a special permit from the officer in charge of the Custom-house, shall 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.
32.—If any owner of goods, upon the entry or clearance thereof, wilfully fails to deliver, if duly required, a duplicate of the bill of entry or shipping-bill thereof,	88	such owner shall be liable to a penalty not exceeding two hundred rupees.
33.—If any person, not being authorized under section 89, acts as an agent for the transaction of business as therein mentioned,	89	such person shall be liable to a penalty not exceeding five hundred rupees.
34.—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,	93	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.
35.—If any Master of a vessel discharges or suffers to be discharged any goods not duly entered in the manifest of such vessel,	93	such Master shall be liable to a penalty not exceeding one thousand rupees.
36.—If any goods are found concealed in any place, box or closed receptacle in any vessel, and are not duly accounted for to the satisfaction of the officer in charge of the Custom-house,	93	such goods shall be liable to confiscation.
37.—If any goods are found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained,	93	such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the chief officer of Customs directs.
38.—If, after any goods have been landed and before they have been passed through the Custom-house, the owner removes or attempts to remove them, with the intention of defrauding the revenue,	100	such goods shall be liable to confiscation; 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.
39.—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	100 & 38	such packages, together with the whole of the goods contained therein, shall be liable to confiscation, and

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
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,		any person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees.
40.—If, when goods are passed by tale or by package, any omission or misdescription thereof tending to injure the revenue be discovered,	100 & 109	the owner of such goods shall 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.
41.—If, without entry duly made, any goods are taken or passed out of any Custom-house or wharf,	100	the person so taking or passing such goods shall, in every such case, be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation.
42.—If any prohibited or dutiable goods are found, either before or after landing, concealed in any passenger's baggage,	100	such goods, together with the other contents of the package in which they are found, shall be liable to confiscation.
43.—If any goods entered to be warehoused 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,	109	such goods shall be liable to confiscation, and any person so carrying them shall be liable to a penalty not exceeding one thousand rupees.
44.—If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or withheld, or removed from any proper place of examination before they have been examined and certified by the proper officer,	109	such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.
45.—If any warehoused goods be not warehoused in accordance with section 110 or 111,	110 & 111	such goods shall be liable to confiscation.
46.—If the licensee of any private warehouse licensed under this Act does not open the same when required so to do by any officer entitled by law to have access thereto, or, upon demand made by any	113	such licensee shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
such officer at any time within the hours of business at the Port, refuses access to any such officer,		
47.—If the keeper of any public warehouse, or the licensee of any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof,	113	such keeper or licensee shall, for every such neglect, be liable to a penalty not exceeding fifty rupees.
48.—If the owner of any warehoused goods, or any person in the employ of such owner, clandestinely opens any warehouse, or, except in presence of the proper officer of Customs, gains access to his goods,	115	such owner or person shall, in every such case, be liable to a penalty not exceeding one thousand rupees.
49.—If any alteration be made in goods duly warehoused, or in the packing thereof, except as provided in section 116,	116	such goods shall be liable to confiscation.
50.—If any goods lodged in a private warehouse are found to be deficient at the time of delivery therefrom,	120	the licensee of 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.
51.—If the keeper of any public warehouse, or the licensee of 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,	120	such keeper or licensee 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.
52.—If any goods entered to be warehoused are, after being duly warehoused, 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,	127	such goods shall be liable to confiscation, and any person concerned in any such offence shall be liable to a penalty of one thousand rupees.
53.—If any goods lodged in a private warehouse are found to exceed the registered quantity,	127	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.
54.—If any goods be removed from the warehouse in which they were originally deposited, except in the presence, or with the sanction, of the proper officer, or under the proper authority for their delivery,	127	such goods shall be liable to confiscation, and any person so removing them shall be liable to a penalty not exceeding one thousand rupees.
55.—If any person illegally takes any goods out of any warehouse without payment of duty, or aids, assists, or is concerned therein,	127	such person shall be liable to a penalty not exceeding one thousand rupees.
56.—If any goods be taken on board of any vessel at any Customs-port before she has been entered outwards at such Port, in accordance with section 136,	136	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
57.—If any goods not enumerated in the manifest, or in a duly passed shipping-bill, are taken on board of any vessel,	137	the Master of such vessel shall be liable to a penalty not exceeding fifty rupees for every package of such goods.
58.—If any goods, whether liable to duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, or otherwise, which are enumerated in the manifest of any vessel, or in any shipping-bill, are not duly shipped before the departure of such vessel, or are relanded; and notice of such short shipment or relanding be not given as required in section 140,	140	such goods shall be liable to confiscation.
59.—If any goods duly shipped on board of any such vessel be landed, except under section 141, at any place other than that for which they have been cleared,	141	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.
60.—If any goods on account of which drawback has been paid be not found on board of any vessel referred to in section 141,	141	the Master of such vessel shall be liable to a 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.
61.—If any person wilfully contravenes any rule relating to spirits made under section 143 or 153,	143 & 153	such person shall be liable to a penalty not exceeding five hundred rupees.
62.—If any person, without a special pass from an officer of excise at the place of exportation, relands or attempts to reland any spirituous liquor shipped for exportation,	152	such persons shall be liable to a penalty not exceeding five hundred rupees; 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.
63.—If, in contravention of any rules made under section 155, any goods are taken into, or put out of, or carried in, any coasting vessel; or if, contrary to any such rules, any coasting vessel touches at any Foreign Port, 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 fails to declare the same in writing to the Customs-collector at the Customs-port at which such vessel afterwards first arrives,	155	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, in addition to the ordinary duty, which shall in every case be levied on such goods.
64.—If any account required by section 156 be false,	156	the Master filling in or signing the same shall be liable to a

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
		penalty not exceeding five hundred rupees.
65.—If failure to produce the certificate mentioned in section 157, or to show sufficient reason for its non-production take place,	157	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.
66.—If any Master of a coasting vessel arriving at the Port of discharge fails, within twenty-four hours after arrival, to deliver a pass as required by section 158,	158	such Master shall be liable to a penalty not exceeding two hundred rupees.
67.—If upon examination, any package entered in the cargo-book required by section 161, as containing dutiable goods, is found not to contain such goods; or	161	such package, with its contents, shall be liable to confiscation.
if any package is found to contain dutiable goods not entered, or not entered as such, in such book,	161	such goods shall be liable to confiscation.
68.—If the Master of any coasting vessel which is square-rigged or propelled by steam fails correctly to keep, or to cause to be kept, a cargo-book, or to produce the same on demand; or	161	such Master shall be liable to a penalty not exceeding five hundred rupees.
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,		
69.—If the Master of any coasting vessel which is not square-rigged or propelled by steam violates any rule made under section 162,	162	such Master shall be liable to a penalty not exceeding one hundred rupees.
70.—If, contrary to the provisions of this or any other law for the time being in force relating to the Customs, any goods are laden on board of any vessel in any Customs-port and carried coastwise; or	Chapter XIII.	such goods shall be liable to confiscation, and the Master of such vessel shall be liable to a penalty not exceeding five hundred rupees.
if any goods which have been brought coastwise are unladen in any such Port; or		
if any goods are found on board of any coasting vessel without being entered in the clearance thereof,		
71.—If the Master of any coasting vessel refuses to bring any document to the Customs-collector when so required under section 163,	163	such Master shall be liable to a penalty not exceeding two hundred rupees.
72.—If any person makes or signs, or uses, any declaration or document used in the transaction of any business relating to the Customs, knowing such declaration or document to be false in any particular; or	General	shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand rupees.
counterfeits, falsifies or fraudulently		

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
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; or		
being required under this or any other Act relating to the Customs to produce any document, refuses or neglects to produce such document; or		
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,		
73.—If any person on board of any vessel or boat in any Customs-port, 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,	General	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.
74.—If any officer of Customs requires any person to be searched for dutiable or prohibited goods, or to be detained, without having reasonable ground to believe that he has such goods about his person, or has been guilty of an offence relating to the Customs,	166	such officer shall be liable to a penalty not exceeding one hundred rupees.
75.—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,	General	such officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.
76.—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,	General	such officer or person shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding two years, or to fine, or to both.
77.—If any Police-officer, whose duty it is, under section 177, to send a written notice or cause goods to be conveyed to a Custom-house, neglects so to do,	177	such Police-officer shall be liable to a penalty not exceeding one hundred rupees.
78.—If any person 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,	General	such 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.

The numbers in the third column of the above schedule are intended merely as general references to the parts of this Act to which the offences have general relation, but are not part of the definitions of those offences.

165. 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.

CHAPTER XV.

PROCEDURE RELATING TO OFFENCES, APPEALS, &c.

166. Any officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in any Port in British India, or any person who has landed from any vessel or boat:

Persons may be searched on reasonable suspicion.

Provided that such officer has reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person.

167. When any officer of Customs is about to search any person under the provisions of section 166, such person may require the said officer to take him, previous to search, before the nearest Magistrate or Customs-collector.

Persons may, before search, require to be taken before 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 Customs-collector.

The Magistrate or Customs-collector 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.

168. Any duly empowered officer of Customs or other person duly employed for the prevention of smuggling, may stop and search any vessel, 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 vessels, carts, &c., and search for goods on reasonable suspicion.

169. Any Magistrate may, on application by a Customs-collector, 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 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.

170. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act, 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.

Persons reasonably suspected may be detained.

171. Every person detained on the ground that he has been guilty of an offence under this Act, shall forthwith be taken before a Magistrate or Customs-collector.

Persons detained to be taken to nearest Magistrate or Customs-collector.

172. When any person detained on the ground that he has been guilty of an offence under this Act, 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 Magistrate 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.

173. If any person liable to be detained under this Act, is not detained at the time of committing the offence for which he is 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.

Person escaping may be afterwards detained.

174. When any person employed on the crew of any of Her Majesty's ships is detained under this Act, 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.

175. Any vessel or goods liable to confiscation may be seized 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.

176. 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 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 place appointed by the Chief Customs-Authority for the deposit of goods so seized.

177. When any goods liable to confiscation under this Act 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.

178. When any vessel or goods is or are seized, or any person is detained, under this Act, 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.

179. 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;

Adjudication of 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,

a Customs-collector, or if there be no such officer at the place where the confiscation or penalty or increased rates is or are incurred, such other officer as the Local Government from time to time appoints in this behalf, may, unless it be otherwise provided in this Act, adjudge such confiscation, penalty or increased rates of duty.

180. In cases cognizable under section 179 by the Customs-collector, the Local Government may empower any officer of Customs by name, or as holding an office, 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 Commissioner or Deputy Collector, to goods of a greater value than one thousand rupees, nor, as regards an Assistant Commissioner or Assistant Collector or other subordinate officer, to goods of a greater value than two hundred rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Commissioner or Deputy Collector, to a sum exceeding five hundred rupees, nor, as regards an Assistant Commissioner or Assistant Collector or other subordinate officer, to a sum exceeding one hundred rupees.

Proviso.

181. Whenever confiscation is authorized by this Act, the officer adjudging it shall 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.

182. When the confiscation of any vessel, cart or other means of conveyance, horse or other animal, or any goods, is adjudged under section 179 or section 180, 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.

183. If any vessel actually departs without a port-clearance, or after failing to bring-to when required at any station appointed under section 16, the penalty to which the Master of such vessel is liable may be adjudged by the Chief Officer of Customs of any Customs-port in British India to which such vessel proceeds, or in which she is, or in the 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 16.

A certificate of such departure or 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.

184. The award of any confiscation, penalty or increased rates of duty under this Act by an officer of Customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.

Penalty under Act not to interfere with punishment under other law.

185. All offences against this Act, other than those cognizable under section 179 by a Customs-collector, may be tried summarily by a Magistrate.

Offences not specially provided for how adjudicated.

186. 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 fit, 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 or have been adjudged against him in the original award.

Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs-Authority.

187. 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.

Goods on which penalty incurred not to be removed till payment.

188. When any penalty is incurred under this Act, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

If any person passing goods through the Custom-house has become liable to any fine or penalty, the Customs-collector may detain such goods until the fine or penalty is discharged.

Goods of person liable to fine or penalty may be detained.

Enforcement of payment of penalty.

189. 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 such goods, 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.

190. 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 does 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 does 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 does 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.

191. 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 of proportional part of fine.

192. 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.

CHAPTER XVI.

MISCELLANEOUS.

Rules to be notified.

193. All rules made under this Act shall be notified in the official Gazette, and shall thereupon have the force of law.

Notifications made may be cancelled.

194. Any notification in the *Gazette of India* or in the official Gazette made by any authority under powers conferred by this Act, may be cancelled in like manner by the same authority.

Remission of duty and compensation to owner in certain cases.

195. If in any case relating to the removal of goods without payment of duty, the person offending be an officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the owner of such goods, no duty shall be payable in respect of such goods. For any damage so occasioned by such officer, the Customs-collector shall, with the sanction of the Chief Customs-Authority, make due compensation to such owner.

Appropriation of penalties, &c., and grant of rewards.

196. 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.

Saving of Calcutta Port Commissioners' and Bombay Port Trust Acts.

197. Nothing in this Act shall affect Bengal Acts V of 1870, VII of 1871 and III of 1872, or Bombay Act I of 1873, or any other law for the time being in force relating to the Commissioners for making improvements in the Port of Calcutta or the Trustees of the Port of Bombay respectively.

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.
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.
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.

PART II.

FORMS.

A.

FORM OF BOND FOR IMPORT DUTY.

(*See sections* 106 *and* 107).

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 (*or* in the District Court, *as the case may be*)

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 goods, 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*) ( )

B.

FORM OF BONDED WAREHOUSE WARRANT.

(*See section* 112).

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.

C.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See sections* 143 *and* 150).

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 (*or* in the District Court, *as the case may be*)

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

D.

FORM OF COASTING PASS—(*see section* 156).

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

Cleared the day of 18 (*Signed*) (*Officer in charge of Custom-house.*)

Here state the particulars according to the above headings.

(*Signed*) (*Name of Master.*)

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, NOVEMBER 10, 1877. { Register No. 53.

☞ 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 24th October 1877, and was referred to a Select Committee :—

No. 19 OF 1877.

A Bill to amend the Panjáb Laws Act, 1872.

For the purpose of amending the Panjáb Laws Act, 1872; It is hereby enacted as follows :—

Preamble.

Substitution of new section for Act IV of 1872, s. 5.

1. For section 5 of the said Act, the following shall be substituted (namely) :—

"5. 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—

Decisions in certain cases to be according to Native law.

(*a*) 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 :

(*b*) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindú law, in cases where the parties are Hindús, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is above referred to."

Substitution of new sections for Act IV of 1872, ss. 9 to 18.

2. For sections 9 to 18 (both inclusive) of the same Act, the following shall be substituted :—

"9. 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. It arises in respect of sales (whether under a decree or otherwise) of immoveable property and of foreclosures of rights to redeem such property.

Right of pre-emption.

"10. 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

(*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 of occupancy affecting such lands.

"11. The right of pre-emption shall not be presumed to exist in any town or city, or any subdivision 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.

"12. If the property to be sold or the right to redeem which is to be foreclosed is situate within, or is a share of, a village, 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 or foreclosed is situate within a village.

(*a*) first, to co-sharers in the village, in order of their relationship to the vendor or mortgagor;

(*b*) secondly, if no relation of the vendor or mortgagor claims to exercise such right, to the landowners of the pattí or other sub-division of the village in which the property is situate, jointly;

(*c*) thirdly, to any member of the village-community; and

(*d*) fourthly, to the tenants (if any) with rights of occupancy in the village:

Provided that when the property is land, to the trees standing on which the Government is entitled, such right belongs to the Lieutenant-Governor of the Panjáb in preference to all other persons.

Where two or more persons are equally entitled to such right, the person to exercise the same shall be determined by lot.

"12 A. When the property to be sold or the right to redeem which is to be foreclosed is a share in joint undivided immoveable property other than land, such right belongs to the co-sharers.

Right when property to be sold is a share in joint undivided immoveable property other than land.

"13. When any person proposes to sell any property, or to foreclose the right to redeem any property, in respect of which any persons have a right of pre-emption, he shall 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 the mortgage, as the case may be.

Notice to pre-emptors.

Such notice shall be given through the Court within the local limits of whose jurisdiction the property or any part thereof is situate, and shall be deemed sufficiently given if it be stuck up on the chaupál or other public place of the village, town or city in which the property is situate.

"14. 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.

"15. When the right of pre-emption arises in respect of the foreclosure of the right to redeem any property, any person entitled to such right may, at any time within three months after the giving of the notice required by section thirteen, 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.

"16. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds (namely):—

Suit to enforce right of pre-emption.

(*a*) that no due notice was given as required by section thirteen;

(*b*) that tender was made under section fourteen or section fifteen and refused;

(*c*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*d*) in the case of a foreclosure, 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 foreclosure, 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.

"17. If the Court find for the plaintiff, the decree shall specify a day on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid.

Decree to fix time for payment.

"18. If such purchase-money or amount is not paid into Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or foreclosure, lose his right of pre-emption over the property to which the decree relates."

Effect of non-payment of purchase-money.

3. For section 35 of the same Act the following shall be substituted (namely):—

Substitution of new section for Act IV of 1872, s. 35.

"35. The Court of Wards may, at its discretion, take charge of, and administer, the estates of all disqualified persons, that is to say:—

Jurisdiction of Court of Wards.

(*a*) females deemed by the Local Government incompetent to manage their estates,

(*b*) persons who have not completed the age of eighteen years,

(*c*) idiots,

(*d*) lunatics,

(*e*) persons declared by the Local Government, incapable, owing to physical defects or infirmities, to manage their own estates,

(*f*) persons convicted of a non-bailable offence and disqualified, in the opinion of the Local Government, by vice or bad character from managing their estates,

(*g*) persons declared by the Local Government, on their own application, to be disqualified from managing their estates:

Provided that the Court of Wards shall not take charge of or administer the estate of any person of any of the classes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of this section, unless he has inherited a beneficial interest in an estate for which a settlement was made with his ancestor, or

Proviso.

in respect of which he would have been entitled to be settled with, if he had been competent to make an agreement for the payment of revenue, or unless he is entitled by inheritance to an assignment of land-revenue:

Provided also 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."

Further proviso.

4. To section 38 of the same Act the following clause shall be added (namely):—

Amendment of Act IV of 1872, section 38.

"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."

STATEMENT OF OBJECTS AND REASONS.

The objects of this Bill are four: first, to make some necessary amendments in the drafting of the Panjáb Laws Act, section 5: secondly, to make like amendments in the sections of that Act relating to pre-emption and to give the Lieutenant-Governor a right of pre-emption in respect of land on which trees belonging to Government are standing: thirdly, to extend the jurisdiction of the Court of Wards to the estates of three classes of proprietors, namely, those incapable, owing to physical defects or infirmities, of managing their own estates; those convicted of a non-bailable offence and disqualified by vice or bad character from managing their estates; and those declared, on their own application, to be so disqualified. The fourth and last object of the Bill is to render all persons whose property is under the superintendence of the Court of Wards incompetent to charge such property without the sanction of the Court.

SIMLA; *The 18th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
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 24th October 1877, and was referred to a Select Committee:—

No. 20 OF 1877.

A Bill to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices.

Whereas by the Merchant Shipping Act, 1854, section 213, and by the Merchant Shipping Act Amendment Act, 1855, section 16, it is enacted that the Board of Trade may, in manner therein mentioned, and in the name of Her Majesty, sue for and recover the wages due to, and expenses incurred in respect of, the distressed seamen and apprentices in the said sections mentioned; And whereas it is expedient to empower such persons as the Governor General in Council may think fit to sue for and recover in British India in the name of the Secretary of State for India in Council, such wages and expenses, when the same are charged upon any ship, or recoverable from any master, owner or other person, found in British India; It is hereby enacted as follows:—

Preamble.

1. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, any wages or expenses recoverable under the said sections of the said Acts in cases where such wages and expenses are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India. Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

Power to appoint persons to sue.

2. All suits and proceedings under this Act shall be instituted and carried on in the name of the Secretary of State for India in Council.

Suits, &c., to be instituted in name of Secretary of State for India in Council.

STATEMENT OF OBJECTS AND REASONS.

By the Merchant Shipping Act, 1854, section 213, and 18 & 19 Vict., c. 91, section 16, provision is made for the recovery by the Board of Trade of wages due to, and expenses incurred in relieving, distressed seamen and apprentices in foreign and colonial ports. These distressed seamen are in many cases Natives of India, and belong to ships which are either registered in or trade to India, and which are seldom, if ever, found within the ports of the United Kingdom. In such cases the Board of Trade has considerable difficulty in recovering the sums expended. When the distressed seamen are Natives of this country, these expenses are charged to the Indian revenue. It is therefore desirable that the Government of India should be enabled to empower some person here to sue, in case the ships or persons chargeable are found in this country. The Bill effects this object by providing that such suits may be brought in the name of the Secretary of State in Council by such persons as the Governor General in Council may, by notification in the *Gazette of India*, generally or specially authorize in that behalf. The Bill will also enable persons so authorized to sue in all cases in which the ships or persons chargeable are found in this country, even though the Indian revenue may not be concerned.

SIMLA; *The 9th October* 1877. } WHITLEY STOKES.

A. PHILLIPS,
Secy. to the Govt. of India.

[Third Publication.]

The following Report of a Select Committee, together with the Bill as amended by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 24th October 1877:—

WE, the undersigned members of the Select Committee to which the Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India was referred, have the honour to report that we have considered the Bill and the papers specified in the margin.

From Financial Department, No. 1354, dated 18th June 1870, and enclosures.
„ ditto No. 1813, dated 5th July 1870, and enclosures.
„ ditto No. 2150, dated 23rd July 1870, and enclosures.
„ ditto No. 2998, dated 12th November 1870, and enclosures.
„ Acting Chief Secretary to Government, Bombay, No. 5623, dated 15th November 1870, and enclosures.
„ Financial Department, No. 291, dated 16th January 1871, and enclosures.
„ ditto No. 1745, dated 24th July 1876, and enclosure.
Telegram from the Secretary of State for India, dated 5th September 1876.
From Secretary, Bengal Bonded Warehouse Association, dated 13th December 1876.
„ Officiating Secretary, Government of Bengal, No. 92, dated 15th January 1877, and enclosures.
„ Commissioner of Orissa, No. 1161, dated 13th January 1877.
„ Chief Secretary to Government, Bombay, No. 845, dated 10th February 1877, and enclosures.
„ Acting Assistant Secretary to the Government of Bengal, No. 304, dated 6th February 1877, and enclosures.
„ Secretary to the Chief Commissioner, British Burma, No. $\frac{158}{17}$, dated 3rd February 1877, and enclosures.
„ Officiating Secretary to the Board of Revenue, Lower Provinces, No. 69B, dated 1st February 1877.
„ Chairman, Trades Association, Madras, dated 7th February 1877, and enclosures.
„ Chief Secretary to Government, Bombay, No. 1084, dated 20th February 1877, and enclosures.
„ Secretary to Government, Madras, No. 1021, dated 10th March 1877, and enclosures.
Demi-official letter from L. Reid, Esq, Commissioner of Customs, Bombay, dated 24th March 1877, and enclosures.
Memorandum by Officiating Secretary to Board of Revenue, Lower Provinces, No. 600 B, dated 25th August 1877, and enclosures.
Note by the Hon'ble T. C. Hope, dated 4th October 1877.

2. In accordance with the suggestion of the Committee appointed by the Bombay Government, the definition of "Customs-port" has been made (section 3, clauses (*d*) and (*e*)) to include, and that of "Foreign Port" to exclude, ports not in British India which are entitled to be treated as British Customs-ports.

3. The existing Act limits the privileges of coasting vessels to vessels which do not touch at any intermediate foreign port. But this has been found difficult of application, especially on the Western Coast, where foreign ports are numerous, and the limitation is illegally waived in the case of coasting steamers. But the Bombay Committee point out that all craft ought to be treated alike, and we think that, where there is danger of smuggling, special restrictions may be imposed on particular classes of goods under the powers of chapter XIII. The definition (section 3, clause (*g*)) has therefore been expanded.

4. We have also enlarged the definition of "Master" (section 3, clause (*h*)) so as to include a ship's agent appointed in writing by the master to be responsible on his behalf, when such appointment is approved by the Customs-collector.

5. In consequence of representations received from the Chief Commissioner of British Burma of the expediency of legalising coasting trade with petty ports which it would not pay to constitute Customs-ports, a provision has been inserted in section 11, with the concurrence of the Department of Revenue, Agriculture and Commerce, enabling the Local Government to recognize such ports for the purposes of the coasting trade only.

6. In accordance with a recommendation of the Bombay Committee, a clause framed on the model of the English Customs Act of 1876, section 153, has been added to section 17 of the Bill, prohibiting the importation or exportation of articles of foreign manufacture bearing names, marks or brands being, or purporting to be, those of manufacturers resident in the United Kingdom or British India.

7. By a little condensation, the whole of chapter X of the Bill as introduced has been dispensed with. The privilege of transhipment has been extended to sailing vessels.

8. By section 38, an owner not having sufficient information regarding any goods has been allowed, as suggested by the Bengal Board of Revenue, to deposit them temporarily in a warehouse.

The term "real value" has also been defined, as the want of a definition has been much felt. The obligation to declare real value has likewise, for statistical purposes, been extended to all goods, whether dutiable or not.

9. The third clause of section 39, by which it is provided that undervalued goods retained for the use of Government shall be sold by public auction, has given rise to some difference of opinion, some authorities advocating the substitution of a general power to dispose of the goods for the benefit of Government, in accordance with the English Customs Act of 1853. We have reserved this question for further consideration after enquiry as to the alleged rarity of cases in which difficulty or loss to Government is occasioned by the present provision.

10. Sections 45 and 46 (33 and 34 of the Bill as introduced) have also elicited wide differences of opinion between different mercantile and Custom-house authorities. The former section is identical in principle with the existing English law: section 20 of the Customs Consolidation Act, 1876, runs as follows:—

"In the event of any increase, decrease, or repeal of duties of customs chargeable upon any goods or commodities after the making of any contract or agreement for the sale or delivery of such goods duty paid, it shall be lawful for the seller, in case such increase shall accrue before the clearance and delivery from the warehouse of such goods at such increased

duty, and after payment thereof, to add so much money to the contract-price as will be equivalent to such increase of duty, and he shall be entitled to be paid and to sue for and recover the same; and it shall be lawful for the purchaser under any such contract or agreement, in case such decrease or repeal shall take effect before the clearance and delivery from the warehouse at such decreased duty, or free of duty, as the case may be, to deduct so much money from the contract-price as will be equivalent to such decrease of duty or repealed duty, and he shall not be liable to pay or be sued for or in respect of such deduction."

The latter section is in harmony with Mr. Wilson's financial statement of February 18th, 1860, and the consequent section 2 of Act X of 1860, as also with the notification of the Government of India, No. 3180, dated 3rd September 1875. Both sections originated in the memorials and representations which the Government of India is in the habit of receiving whenever a change of tariff takes place. We have added another illustration to section 45, to express its scope more fully; but we have left the general question of the retention of both sections open for discussion in Calcutta.

11. We have omitted from section 50 (121 of the Bill as introduced) the last clause, which followed the existing law, as it has been justly pointed out by Mr. Lane, the Collector of Customs at Calcutta, that it is unreasonable to refuse drawback on ships' stores, and both inconsistent with the permission to export from bond (section 30) and at variance with the English Act.

12. In deference to the unanimous opinion expressed in the reports, the rate of drawback has been re-entered in section 50 at the existing rate of seven-eighths, instead of three-fourths, to which it was raised in the Bill as introduced.

13. In accordance with representations received from the Bombay Committee and other quarters, we have, with the concurrence of the Department of Revenue, Agriculture and Commerce, extended to the Indian Marine and Marine Survey (section 56) the privileges with regard to wine, provisions and stores which have hitherto been confined to officers and ships of Her Majesty's Navy. The privilege has likewise been extended in all cases to spirits.

14. In order to meet the case of the foreign ports of Native States on the Western Coast, which are not surrounded by customs preventive lines, the existing practice of refusing drawback on exports to such ports has been legalised (section 57) in the form of empowering the Governor General in Council to prohibit drawback in the case of any particular port. This is in accordance with the Bombay Committee's suggestion.

15. In accordance with the existing practice at Bombay, which originated in section 35 of Act I of 1852, the Customs-collector has been empowered (section 58) to reject, if he sees fit, any claim for drawback amounting to less than ten rupees. The Bombay Municipal Act provides similarly regarding petty refunds of town-duty.

16. Section 44 of the Bill as introduced was inserted in consequence of a long correspondence which arose in Bombay with the Chamber of Commerce out of the practice prevailing there of masters entering in the manifest the names of the ships' agents as consignees of the cargo, and the true consignees complaining of delay in receiving their goods and of the departure of the vessel in the interim. The Bombay Committee, however, now find that the section will not meet the case, and, though it is not objected to by Bengal and Madras (chiefly, it would seem, owing to difference of circumstances), we think it better to omit it, and to obviate the difficulty partly by an addition to section 71, permitting port-clearance to be refused except on security for the clearance of the import-manifest, and partly by new provisions in chapter IX, which will be explained hereafter.

17. *Section 64* is new, to adapt the law to actual circumstances, under which the manifest sometimes arrives by overland mail before the vessel itself, in which case the saving of time by commencing the preliminaries for her discharge is desirable.

18. *Section 71.*—The Madras Committee recommend the addition of a clause authorising the refusal of port-clearance to any vessel the master or agents of which have not made all reasonable endeavours to land all the cargo for the port. Formerly, they say, they could stop a vessel through the High Court, or bring an action for overcarrying their goods; but now canal-steamers protect themselves by a clause in the bill of lading. The Madras Trades Association support this recommendation by a letter (Paper No. 9) giving details of packages actually overcarried. On the other hand, overcarrying is defended on the grounds, 1st, that boats are scarce at Madras; 2nd, that boatwork is there prohibited after sundown; 3rd, that mail-contracts prevent steamers making long delays. We have reserved this question for discussion at Calcutta.

19. *Section 75.*—In accordance with the recommendations of the Calcutta Committee and the Bengal Board, the periods of unloading and loading have been combined; but the aggregate of 30 days has been reduced to 20. The additional periods for loading and unloading have also each been reduced to one day for every 100 tons instead of every 50. This will still leave a vessel of 1,200 tons, for instance, 32 days, which is ample. Sections 50 and 108 of the Bill as introduced have been consolidated into this section, and words have been inserted to prevent more than one officer at a time being claimed as of right when, from smallness of establishment or press of work, extra officers may not be available.

20. *Sections 76 and 77.*—Special provision has been made in the concluding clauses for goods being water-borne from places not duly appointed as wharves, and without the presence or authority of an officer of customs, as also without boat-notes, in order to meet the circumstances of Calcutta, as represented by the Board of Revenue. In section 77, the suggestions from Burma have also been attended to, and sections 61 and 125 of Act VI of 1863 (Bill I, sections 53, 58 and 111) have been amalgamated.

21. *Sections 97 and 98.*—These are the new sections inserted, and referred to above in paragraph 16, in order to permit the prompt discharge of cargo where there is urgent

necessity, or there are special facilities, for it. We are disposed to consider that a provision of this nature is the best for meeting the difficulties now felt and reconciling the conflicting interests of ship-owners and owners or consignees of goods. The latter are protected from double charges for agency. The sections, however, are tentative, and may require amendment after they have been scrutinized by the Trade and the Customs Departments at Bombay and Calcutta.

22. Adverting to section 106, we have altered the form of the bond, in accordance with a suggestion from Madras, so as to allow of enforcement in a District Court instead of in the High Court, though this was really not indispensable, since any of the forms may, even under the existing Act, be modified by the Chief Customs Authority.

23. *Section 107.*—In accordance with a suggestion from British Burma, arising out of an opinion by the Advocate General, a clause has been added to make it clear that a fresh bond is not indispensable on every fresh removal of the goods while in warehouse.

24. *Section 116.*—Permission to bottle off wines and spirits has been added, in conformity with the English Act and suggestions from Bengal.

25. *Section 132.*—This section has been modified in accordance with suggestions from Bengal, so as to place recovery of rent on the same footing as recovery of duty.

26. *Section 137* has been modified to suit Calcutta, in the same way as sections 76 and 77 (*vide* supra, paragraph 20).

27. *Section 140.*—In order to obtain correct statistics of imports and exports, it has been made compulsory on the owner of goods short-shipped or re-landed to give information of the fact to the Custom-house. This is in accordance with recommendations received and with the English law regarding short shipments.

28. Chapter XVIII of the Bill as introduced, which was entitled "Offences and Penalties," has elicited some differences of opinion as to what was the best position in the Act for such matters. We have now, in the first place, transferred to a separate chapter everything relating to procedure. With regard to the offences and penalties themselves, we are of opinion that the chief thing to be considered is the convenience of the mercantile and nautical public rather than that of adjudicating officers. Anybody who wishes honestly to know what the law requires him to do, will find his study of the existing Act perpetually interrupted by the long offence and penalty clauses, the terrors of which it cannot be indispensable to place in close juxtaposition with every injunction or obligation.

We have now recast the chapter (XIV) in tabular form, shewing in three columns the offence, the section to which it has reference, and the penalty, and trust that this will meet the views of all parties. To the adjudicating officer it will, we believe, not be inconvenient; to the public it will be a relief not to have every section burdened with unnecessary matter, while Custom-house officials may, if they wish, have the chapter printed separately to hand to every master on arrival, or to frame and post up in conspicuous places at the Custom-house and wharves.

29. We have made numerous changes in the phraseology of the Bill throughout, to secure both clearness and brevity. Considerable alterations have also been made in the arrangement of chapters and sections, with the view both of condensation and of bringing analogous provisions together and securing a practical sequence. The chapters now stand as follows:—

Chapter I.—Preliminary.
" II.—Appointment of officers in the Department of Customs.
" III.—Appointment of ports, wharves, custom-houses, warehouses and boarding and landing-stations.
" IV.—Restrictions and prohibitions of importation and exportation.
" V.—Levy of, and exemption from, customs-duties.
" VI.—Drawback.
" VII.—Arrival and departure of vessels.
" VIII.—General provisions affecting vessels in port, &c.
" IX.—Importation or discharge.
" X.—Warehousing.
" XI.—Exportation or shipment, and re-landing.
" XII.—Spirits.
" XIII.—Coasting trade.
" XIV.—Offences and penalties.
" XV.—Procedure relating to offences, appeals, &c.
" XVI.—Miscellaneous.

30. We propose to consider the Bill further in Calcutta, and recommend that it be in the meantime published in the *Gazette of India* for general information.

T. C. HOPE.
WHITLEY STOKES.
F. R. COCKERELL.

SIMLA;
The 20th October 1877.

No. II.

SEA CUSTOMS BILL, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
2. Repeal of enactments.
3. Interpretation.

CHAPTER II.

APPOINTMENT OF OFFICERS OF CUSTOMS, &c.

4. Local Government to appoint necessary officers.
Suspension and dismissal of such officers.
5. Local Government may delegate its powers under section 4.
Suspension and dismissal of subordinate officers.
6. Collector of District to perform duties of Customs-collector, where there is no separate Customs-collector.
7. Making and publishing of rules.
8. Appeals how and by whom to be decided.
9. Deposit, pending appeal, of duty demanded.
10. Customs-officers exempted from service on any jury or inquest or as assessors.

CHAPTER III.

APPOINTMENT OF PORTS, WHARVES, CUSTOM-HOUSES, WAREHOUSES AND BOARDING AND LANDING-STATIONS.

11. Power to appoint Ports, Wharves, Custom-houses, Warehouses and Boarding and Landing-stations.
12. Power to declare that an Indian Port not in British India shall be regarded as a Customs-port for certain purposes.
13. Power to declare Warehousing Ports.
14. Appointment of public Warehouses.
15. Power to license private Warehouses.
Revocation of license.
Form of application for license.
16. Stations for Customs-officers to board and also land from ship.

CHAPTER IV.

PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

17. Prohibitions and restrictions.
18. Importation without license of arms and ammunition prohibited.
Proviso.
19. Governor General may prohibit or restrict importation or exportation of goods.
20. Importation and exportation.

CHAPTER V.

LEVY OF, AND EXEMPTION FROM, CUSTOMS DUTIES.

21. Import-duties.
22. Export-duties.
23. No duties on goods carried from one Customs-port to another.
Proviso.

SECTIONS.
24. Power to fix values of dutiable goods.
25. Power to exempt from Customs-duties.
Power to authorize, in special cases, exemption from payment of duty.
26. Baggage in actual use.
27. Reimported articles of country-produce dutiable in certain cases
Proviso.
28. Goods derelict and wreck dutiable in certain cases.
29. Duty on opium re-exported by sea.
30. Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported duty-free on certain conditions.

Transhipment.

31. Power to permit transhipment without payment of duty.
Proviso.
32. Rules regulating exercise of power, and transhipment.
33. Entry and warehousing, on arrival, of goods transhipped under section 31, clause 2.
Proviso.
34. Transhipment of stores from one vessel to another of same owner without payment of duty.
35. Officer of Customs to superintend transhipment.
36. Levy of transhipment-fee.
37. Power to prohibit transhipment.

Miscellaneous Provisions.

38. Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.
39. Under-valued goods how dealt with.
40. Duties on goods retained under section 39 for use of Government.
41. Claims to abatement of duty on account of damage how to be treated.
42. Disposal of damaged goods and levy of duty thereon.
43. Date of importation how determined.
44. Date of exportation how determined.
45. Contracts for sale of goods, duty on which is raised or lowered before performance.
46. Duty leviable on sea-borne goods, duty on which has been altered during transit.
47. Payment of duties short-levied or erroneously refunded.
48. No refund of charges erroneously levied or paid, unless application made within three months.
49. Dutiable goods may be passed on security for duty.

CHAPTER VI.

DRAWBACK.

50. Amount of drawback allowable on re-export.
Conditions for grant of drawback.
Drawback to be allowed on goods exported to Customs-port and thence to Foreign Port.
Proviso.
51. Drawback on exportation of spirit.
52. Drawback of duties on wine and spirits allowed for officers of Navy.
53. Persons entering such wine or spirits for drawback to declare name and rank of officer claiming same.

SECTIONS.
54. Transfer of wine or spirits from one Naval officer to another, &c.
55. Provisions and stores for Her Majesty's Navy exempt from duty.
56. Privilege extends to Indian Marine and Marine-survey.
57. Governor General in Council may declare what goods are identifiable, and may prohibit drawback in case of specified Foreign Port.
58. No drawback to be allowed in certain cases.
59. Time to claim and demand payment of drawback.
60. Declaration to be made by parties claiming drawback.

CHAPTER VII.

ARRIVAL AND DEPARTURE OF VESSELS.

61. 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.
62. Delivery of manifest where no place has been so fixed.
63. Description of manifest.
Amendment of errors in manifest.
64. Agent may deliver manifest.
65. Duty of person receiving manifest.
66. Bulk not to be broken until manifest, &c., delivered, and ship entered at Custom-house.
67. Master, if required, to deliver bill of lading, &c., to Customs-collector.
68. No vessel to depart without port-clearance.
69. No Pilot to take charge of any vessel proceeding to sea without production of port-clearance.
70. Master on applying for port-clearance to deliver manifest and certificates.
71. Port-clearance may be refused unless certain conditions are fulfilled.

CHAPTER VIII.

GENERAL PROVISIONS AFFECTING VESSELS IN PORT, &c.

72. Power to depute officer of Customs to board ships.
Proviso.
73. Servant to be received with officer.
Accommodation of officer and servant.
74. Officers of Customs to have free access to every part of ship, and may seal and secure goods.
Customs-collector may authorize search and opening of locks.
75. Period allowed for discharge and shipment of cargo.
Consequence of exceeding same.
Allowance for period during which vessel is laid up.
76. Goods not to be landed, shipped, or water-borne on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.
77. Boat-note.
78. Goods water-borne to be forthwith landed or shipped.
79. Goods not to be landed elsewhere than at appointed wharf or place.

SECTIONS.
80. Power to prohibit plying of unlicensed cargo-boats.
Issue of licenses.
81. Customs-collector may require goods to be weighed or measured on board before landing.
82. Customs-officer may open package and examine goods shipped.
83. Customs-collector may take samples of goods.
84. Owner to pay expense incidental to compliance with Custom-house rules.
Fee for landing baggage.
85. No compensation for loss or injury except on proof of neglect or wilful act.
86. Rates of wharfage-fees.
87. Duplicates may be granted and amendments made on payment of fee.
88. Owner to deliver duplicate of bill of entry or shipping-bill, if required.
89. Agents must be duly authorized.
90. Agent to produce authority if required.

CHAPTER IX.

IMPORTATION OR DISCHARGE.

91. Discharge of cargo may commence on receipt of due permission.
92. Portion of import-cargo intended for another port, ship's stores, &c., may be kept on board free of duty.
93. Goods not to leave ship unless entered in manifest.
94. Procedure in respect of goods not landed within time allowed.
Effect of not discharging cargo in any less period specified in bill of lading.
95. Goods may be landed at any time after arrival, with consent.
96. Notice regarding unclaimed packages.
97. Procedure in case of non-payment of duties within four months after entry of vessel.
98. Immediate discharge permitted in certain cases.
99. Goods not cleared within two months from date of landing to be sold.
Disposal of overplus.
Proviso.
100. Entry for home-consumption.

CHAPTER X.

WAREHOUSING.

101. Deposit of goods in warehouse without payment of duty.
102. Warehouse-keeper.
Responsibility of keeper.
103. Chief Customs-Authority to decide where any goods may be deposited in public warehouse, and on what terms.
Table of rates of rent.
104. Form of application for admission of goods into warehouse.
105. No goods to be warehoused unless assessed for Customs-duty.
Saving of re-assessment of warehoused goods on clearance for home-consumption.
106. Bond for duty on goods sought to be warehoused. Form of bond.
107. Terms of bond to be executed.

SECTIONS.
108. Period for which goods may remain warehoused under bond.
When bond for duty on goods in private warehouse may be sued on.
109. Procedure in respect of goods to be warehoused.
110. Packages, &c., to be marked and numbered before admission into warehouse.
111. Goods how warehoused.
112. Warrant to be given every time goods are warehoused.
Form of warrant.
113. Access of Customs-officer to private warehouse.
114. Power to cause packages lodged in warehouse to be opened and examined.
115. Access of owners to warehoused goods.
116. Goods in warehouse may be sorted, repacked, &c., by owner, &c.
117. Power to remit duties on warehoused goods lost or destroyed;
and if goods are damaged, duty to be levied on actual value.
118. Import-duty to be on quantity or value registered at time of importation.
Proviso as to wines, spirits, beer or salt.
119. Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.
120. Public warehouse-keeper, or licensee of private warehouse, answerable for weight or gauge.
Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c.
121. Power to remove goods from one warehouse to another in same Port.
122. Bonded goods may be removed from one Port to another.
Procedure.
123. Officers at Port of removal to transmit account of goods to officers at Port of destination.
Owner to execute bond for due arrival, &c.
124. Remover may enter into a general bond.
125. Goods on arrival at Port of destination to be subject to same laws as goods on first importation.
126. Removal of goods to be noted on the bond, with particulars.
127. Goods not to be removed from warehouse, except after application to Customs-collector.
128. Form of application for removal of goods.
Twenty-four hours' notice to be given.
129. On goods being removed improperly or otherwise than for export, &c., full duty to be paid.
130. Procedure on failure to pay duty.
131. Expenses of carriage, packing, &c., to be borne by owners.
132. Payment of rent and warehouse-dues.
In case of failure, goods may be sold, &c.
133. Register of bonds to be kept.
When bonds are to be cancelled and returned to obligee.
134. Duty on warehoused goods to be settled within three years.
135. Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association.

CHAPTER XI.

EXPORTATION OR SHIPMENT AND RE-LANDING.

SECTIONS.
136. Permission for entry outwards to be obtained before export-cargo is shipped.
137. Exporter to deliver shipping-bill before shipping any goods.
138. On entry outwards, bond to be given for shipping and landing.
139. Additional charge on goods passed for shipment after port-clearance has been granted.
140. Notice of non-shipment or re-landing, and return of duty thereon.
Proviso.
141. Goods re-landed or transhipped from a vessel returning to Port, or putting into another Port.
142. Vessel returning to Port may enter and land goods under import-rules.

CHAPTER XII.

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 from one Customs-port to another, but such spirits may be exported under bond.
149. Duty on spirits exported under bond from one Indian Port to another, how 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.
Decision where no rules or their applicability disputed.

CHAPTER XIII.

COASTING TRADE.

154. Application of Act to coasting vessels.
155. Power to regulate carriage of goods coastwise.
156. Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.
157. Power to require bond before port-clearance is granted.
158. Time for delivery of pass.
159. Goods on coasting vessel, if excisable, not to be unladen without permission.
160. Grant and revocation of general pass.
161. Rules respecting cargo-book to be kept by Masters of coasting vessels.

SECTIONS.
162. Power to prescribe rules for Masters of other coasting vessels.
163. Power to board and examine any coasting vessel.

CHAPTER XIV.

OFFENCES AND PENALTIES.

164. Punishments for offences.
1. For infringing rules made by Chief Customs-Authority.
2. For landing or shipping goods at unauthorized Port, &c.
3. For shipping, landing, concealing, &c., contrary to Act.
4. Vessels in Port with a cargo, and afterwards found in ballast and cargo unaccounted for, liable to confiscation.
5. For Masters of tug-steamers or pilot-vessels receiving or discharging any goods without due authority.
6. For not bringing-to at boarding-station.
7. For vessel removing from place of mooring, or unlading, without due authority.
8. Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.
9. For infringing rules or orders regarding transhipment.
10. For unauthorized declaration as to value of goods.
11. Wine not laden, or unladen without permission, liable to confiscation.
12. Confiscation of goods entered for drawback, which are less in value than the amount of drawback claimed.
13. Drawback goods, if not exported, or if re-landed, liable to confiscation, and parties concerned to penalty.
14. For proceeding inward beyond fixed place before delivery of manifest.
For omitting to deliver manifest when vessel anchors below reporting-station.
15. For like omission when reporting-station has not been fixed.
16. For Master delivering unsigned or untrue manifest.
17. For Pilot, &c., not receiving manifest.
18. For breaking bulk without permission.
19. For false entry, fraudulent alteration, &c.
20. For attempting to depart without port-clearance.
21. For departing without port-clearance.
22. On Pilot taking charge of vessel without port-clearance.
23. For refusing to receive officer of Customs on board.
24. For disobeying section 73.
25. For Masters resisting search, &c.
26. For lading in absence of Customs-officer.
27. For removing goods contrary to section 76.
28. For sending goods without or in excess of boat-note.
29. For non-receipt or non-delivery or non-signing of boat-note.
30. For not landing goods in accordance with section 78, or for landing, &c., goods contrary to section 79.
31. Goods found in unlicensed cargo-boats may be confiscated.
32. For non-delivery of duplicate bill of entry, &c.
33. For acting as agent without authority.
34. For not being able to account for missing or deficient package, &c.
35. For discharging goods not duly entered in manifest.
36. Goods found concealed liable to confiscation.
37. Goods not agreeing in description and quantity with entry in manifest liable to confiscation or extra duty.
38. For removing goods after landing and before due entry.
39. Goods brought to be passed through Custom-house liable to confiscation in case of discrepancy, misdescription, &c.
40. For misdescription of goods.
41. For taking or passing goods without entry.
42. Prohibited or dutiable goods concealed in baggage.
43. For improper carrying into warehouse.
44. For withholding or removing before examination goods entered to be warehoused.
45. For warehousing goods improperly.
46. For refusing to open private warehouse when duly required.
47. For neglecting to stow goods properly in warehouse.
48. For importer or owner of warehoused goods clandestinely gaining access.
49. For altering warehoused goods.
50. For deficiencies in a private warehouse.
51. For neglecting to produce goods when required.
52. Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.
53. For excess, in private warehouse, over registered quantity.
54. For removing warehoused goods improperly.
55. For taking goods out of warehouse without paying duty.
56. For shipping goods before entry outwards.
57. For shipping goods not in manifest, &c.

SECTIONS.

58. Certain goods if entered in manifest and not shipped, or if relanded without notice, liable to confiscation.
59. For landing at place other than that for which goods have been cleared.
60. For deficiency in goods on which drawback has been paid on board vessel returning to Port, or putting into another Port.
61. For contravening rules relating to spirits.
62. For irregularly re-landing spirituous liquors.
63. For contravention of rules as to coasting trade.
64. For signing false account.
65. For failure to produce certificate.
66. For failure of Master of coasting vessel to deliver pass.
67. For breach of rules as to cargo-book.
68. For failure to keep cargo-book correctly, &c.
69. For breach of rules under section 134.
70. For breach in respect of lading, carrying coastwise, and unlading.
71. For refusal to produce documents.
72. For making false declaration, refusing to answer questions, &c.
73. For possession of smuggled goods.
74. For searching persons on insufficient grounds.
75. Customs-officers, if guilty of breach of duty, how punishable.
76. Customs-officers committing or conniving at frauds, how punishable.
77. For neglect of Police-officer to give notice.
78. Punishment for obstruction to Customs-officers.

165. Tackle, &c., included in confiscation of vessels.
Packages and contents included in confiscation of goods.
Also conveyances and animals used in removal.

CHAPTER XV.

PROCEDURE RELATING TO OFFENCES, APPEALS, &c.

166. Persons may be searched on reasonable suspicion.
167. Persons may, before search, require to be taken before Magistrate, &c.
168. Officers of Customs may stop vessels, carts, &c., and search for goods on reasonable suspicion.
169. Magistrate may issue search-warrant on application.
170. Persons reasonably suspected may be detained.
171. Persons detained to be taken to nearest Magistrate or Customs-collector.
172. Persons taken before Magistrate may be detained or admitted to bail.

SECTIONS.

173. Person escaping may be afterwards detained.
174. Persons in Her Majesty's Navy, when detained, to be secured on board until warrant procured.
175. Vessels, goods and persons may be seized or detained.
176. Vessels and goods seized how dealt with.
177. Procedure in respect of goods seized on suspicion.
178. When seizure is made, seizing officer to give reason in writing.
179. Adjudication of confiscations and penalties.
180. Local Government may confer like powers on other officers of Customs.
Proviso.
181. Option to pay fine in lieu of confiscation.
182. On confiscation of vessel or goods, property to vest in Her Majesty.
183. Levy of penalty for failure to bring-to when required under section 16.
184. Penalty under Act not to interfere with punishment under other law.
185. Offences not especially provided for how adjudicated.
186. Appeal from subordinate to Chief Customs-Authority.
187. Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs-Authority.
188. Goods on which penalty incurred not to be removed till payment.
Goods of person liable to fine or penalty may be detained.
189. Enforcement of payment of penalty.
190. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.
191. Imprisonment to terminate upon recovery of fine.
192. Or of proportional part of fine.

CHAPTER XVI.

MISCELLANEOUS.

193. Rules to be notified.
194. Notifications made may be cancelled.
195. Remission of duty and compensation to owner in certain cases.
196. Appropriation of penalties, &c., and grant of rewards.
197. Saving of Calcutta Port Commissioners' and Bombay Port Trust Acts.

SCHEDULE.

PART I.—ACTS REPEALED.
PART II.—FORMS.
A. Form of Bond for Import-duty.
B. Form of Bonded Warehouse-warrant.
C. Form of Bond for removal of Spirits from licensed Distillery.
D. Form of Coasting-pass.

A Bill to consolidate and amend the law relating to the levy of Sea Customs-duties.

WHEREAS it is expedient to consolidate and amend the law relating to the levy of Sea Customs-duties; It is enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Sea Customs Act, 1877:" Short title.
And shall come into force on the passing thereof. Commencement.

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 appointments and notifications made, and licenses issued, under Act No. VI of 1863, shall, as far as may be, be deemed to have been respectively made and issued under this Act.

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

(*a*) "Chief Customs-Authority" denotes the person authorized to exercise, subject to the Local Government, the chief control in matters connected with Sea-customs in any place to which this Act applies: "Chief Customs-Authority."

(*b*) "Chief Customs-Officer" denotes the Chief Executive Officer of Sea-customs for any Port to which this Act applies: "Chief Customs-Officer."

(*c*) "Customs-collector" includes every officer of Customs for the time being in separate charge of a Custom-house, or duly authorized to perform all, or any special, duties of an officer so in charge: "Customs-collector."

(*d*) "Customs-port" denotes any Port in British India at which Sea Customs-duties are leviable, and any Foreign Port which has been declared under section 12 to be a Customs-port: "Customs-port."

(*e*) "Foreign Port" includes Aden and any port or place in India not situated in British India, and not declared under section 12 to be a Customs-port: "Foreign Port."

(*f*) "Vessel" includes anything made for the conveyance by water of human beings or property: "Vessel."

(*g*) "Coasting vessel" denotes any vessel proceeding from one Customs-port to another Customs-port, whether touching at any intermediate Foreign Port or not: "Coasting vessel."

(*h*) "Master" includes every person, except a Pilot, having command or charge of any vessel: and also a ship's agent, appointed in writing by the master to be responsible on his behalf when such appointment is approved by the Customs-collector: "Master."

(*i*) "Warehouse" denotes any place 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."

(*j*) "Owner" includes importer, exporter and consignee, and an agent of any of them duly appointed and authorized under this Act. "Owner."

CHAPTER II.

APPOINTMENT OF OFFICERS OF CUSTOMS, &c.

4. The Local Government of every place in which duties of Sea-customs are leviable, shall appoint such persons as it thinks fit to be officers of Customs, and to exercise the powers conferred, and to perform the duties imposed, by this Act on such officers. Local Government to appoint necessary officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him. Suspension and dismissal of such officers.

5. The Local Government may delegate to any officer of Customs all or any of the powers vested in it by section four. Local Government may delegate its powers under section 4.

Every person appointed in exercise of such delegated power may be suspended or dismissed by the officer who appointed him. Suspension and dismissal of subordinate officers.

6. At any place at which there is no Customs-collector, the Collector of the District and the officers subordinate to him may perform all duties required by this Act to be performed by a Customs-collector and other officers of Customs. Collector of District to perform duties of Customs-collector, where there is no separate Customs-collector.

7. The Chief Customs-Authority may from time to time, with the sanction of the Local Government, make rules consistent with this Act for regulating the practice and proceedings of, and the delegation of their duties by, officers of Customs. Making and publishing of rules.

8. If any dispute arises between any officer of Customs and any Master of a vessel, or owner of goods, 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 decide such dispute, subject to an appeal to the Local Government. Appeals how and by whom to be decided.

9. Where the dispute relates to the duty leviable in respect of any goods, the owner of such goods, if dissatisfied with such decision, shall deposit in the hands of the Customs-collector at the Port of importation or exportation, respectively, the amount of duty demanded by the deciding officer, pending the settlement of the matter on appeal. Deposit, pending appeal, of duty demanded.

Upon payment of such deposit and compliance with the provisions of this Act relating to the entry or shipment of such goods, the Customs-

collector shall cause the goods to be delivered to such owner for importation or exportation, as the case may be.

Customs-officers exempted from service on any jury or inquest or as assessors.

10. No Chief Customs-Authority or Chief Customs-Officer, and no other officer of Customs whom such Chief Authority or Chief Officer deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest, or as an assessor.

CHAPTER III.

APPOINTMENT OF PORTS, WHARVES, CUSTOM-HOUSES, WAREHOUSES AND BOARDING AND LANDING-STATIONS.

Power to appoint Ports, Wharves, Custom-houses, warehouses and boarding and landing-stations.

11. 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, and for the landing or shipping of particular classes of goods;

(*d*) declare the limits of any such Wharf;

(*e*) alter the name of any such Port or Wharf.

Every such Port, except Aden, shall be a Customs-port within the meaning of this Act.

The Local Government may also from time to time in like manner declare

(*f*) places to be Ports for the carrying on of coasting trade with Customs-ports, or with any specified Customs-ports, and for no other purpose;

(*g*) what shall, for the purposes of this Act, be deemed to be a Custom-house, and the limits thereof.

Power to declare that an Indian Port not in British India shall be regarded as a Customs-port for certain purposes.

12. The Governor General in Council may from time to time declare, by notification in the *Gazette of India*, that any Foreign Port shall, with such limitations and on such conditions (if any) as he thinks fit, be a Customs-port for the purposes of this Act, in so far as the same is capable of being applied to such Port.

Power to declare Warehousing Ports.

13. The Local Government may from time to time declare, by notification in the official Gazette, that any Customs-port shall be a Warehousing Port for the purposes of this Act.

Appointment of public Warehouses.

14. At any Warehousing Port, the Chief Customs-Authority may from time to time appoint public Warehouses wherein dutiable goods may be deposited without payment of duty on the first importation thereof.

Power to license private warehouses.

15. At any Warehousing Port, the Chief Customs-Officer may from time to time license private warehouses wherein dutiable goods may be deposited without payment of duty on the first importation thereof.

Revocation of license.

Every license for a private warehouse so granted may, unless it be otherwise provided in the license, be revoked after one month's notice by the Chief Customs-Officer, and may be cancelled on conviction of the licensee of any offence under this Act relating to warehouses.

Form of application for license.

Every application for a license for a private warehouse shall be in writing, and shall be drawn up in such form as is from time to time prescribed by the Chief Customs-Authority, and shall be signed by the applicant.

Stations for Customs-officers to board and also land from ship.

16. 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, unless separate provision therefor has been made under the Indian Ports Act, 1875, direct at what particular place in any such Port vessels, not brought into Port by pilots, shall be required to anchor or moor.

CHAPTER IV.

PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

Prohibitions and restrictions.

17. 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 a notice in writing that such copyright subsists, and a statement of the date on which it will expire:

(*b*) counterfeit coin:

(*c*) any indecent or obscene book, pamphlet, paper, drawing, painting, representation, figure or article:

(*d*) articles of foreign manufacture bearing any names, brands or marks being, or purporting to be, the names, brands or marks of manufacturers resident in the United Kingdom or British India.

Importation without license of arms and ammunition prohibited.

18. The importation into British India of arms or ammunition, except under a license from the Governor General in Council, or from some officer authorized in that behalf by the said Governor General in Council, or otherwise in accordance with any law for the time being in force, is prohibited.

Proviso.

Nothing in this section shall apply to rifles, guns, pistols, 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.

19. 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.

20. It shall be lawful to import into, or to export from, any place declared under section 11 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 by any notification of the Governor General in Council, for the time being in force.

CHAPTER V.

LEVY OF, AND EXEMPTION FROM, CUSTOMS-DUTIES.

Import-duties.

21. Customs-duties shall be levied on such goods imported by sea into any Customs-port from any Foreign Port, at such rates, and with such exemptions, as may be prescribed by any law for the time being in force.

Export-duties.

22. Customs-duties shall be levied on such goods exported by sea from any Customs-port to any Foreign Port, 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 Customs-port to another.

23. No Customs-duties shall be levied on goods carried by sea from any Customs-port to any other Customs-port:

Proviso.

Provided that nothing in this section shall apply

to opium, salt or spirits; or

to goods brought from any Foreign Port 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 fix values of dutiable goods.

24. 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 tariff-value of any goods exported or imported by sea on which Customs-duties are by law imposed.

Power to exempt from Customs-duties.

25. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt any goods imported into, or exported from, British India, or into or from any specified Port or place therein, from the whole or any part of the Customs-duties leviable thereon under any law for the time being in force.

Power to authorize, in special cases, exemption from payment of duty.

The Chief Customs-Authority may, by special order in each case, exempt from the payment of duty, under stated circumstances of an exceptional nature, any goods on which Customs-duties are leviable by any law for the time being in force.

Baggage in actual use.

26. The Customs-collector may, subject to any general rules relating to the landing and shipping of passengers' baggage and the passing of the same through the Custom-house, which may be made under section 7, pass free of duty any baggage in actual use, and for this purpose may determine, subject to any such rules, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

Re-imported articles of country-produce dutiable in certain cases.

27. If goods produced or manufactured in British India be imported into any Customs-port from any Foreign Port, such goods shall be liable to all the duties, conditions and restrictions, if any, to which goods of the like kind and value not so produced or manufactured 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 Customs-collector that the property in such goods has continued in the person by whom or on whose account, they were exported, the goods may be admitted without payment of duty.

Goods imported, for which any drawback of excise has been received on exportation, shall be subjected to payment of duty, unless the Chief Customs-Authority in any particular case otherwise directs by special order.

Goods derelict and wreck dutiable in certain cases.

28. All goods derelict, jetsam, flotsam and wreck, brought or coming into any Customs-port, shall at all times be subject to the same duties, if any, to which goods of the like kind are subject on importation at such Port, unless it be shown to the satisfaction of the Customs-collector, that such goods are the produce or manufacture of any place, from which they are entitled to be admitted duty-free.

Duty on opium re-exported by sea.

29. Opium imported by sea into any Customs-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.

Provisions, stores, &c., for consumption on vessels proceeding to Foreign Ports may be exported duty-free on certain conditions.

30. Provisions and other ship's stores warehoused at the time of importation may be exported without payment of duty for use on board of any vessel proceeding directly to a Foreign Port, whether such Port be or be not the Port of ultimate destination.

Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port, may also be exported free of duty, whether of customs or excise, in such quantities as the Customs-collector 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 so shipped on any vessel not going to a Foreign Port, or going on a voyage of less than thirty days' probable duration.

Transhipment.

Power to permit transhipment without payment of duty.

31. In the Ports of Calcutta, Madras, Bombay, Kárwár, Karáchi, Aden, Rangoon, Maulmain, Akyab, Chittagong, and such other Customs-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 Customs-Officer may, on application of the owner of any goods imported into such Port, grant leave to tranship the same without payment of duty, if any be leviable, 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.

In any Customs-port other than a Port in which the preceding clause may from time to time be in force, the Customs-collector may, on

application of such owner, grant leave for transhipment without payment of duty, if any be leviable, at such Port; provided that, where the goods so transhipped are dutiable, and are to be removed to some other Customs-port, the owner 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 such Customs-collector directs:

Proviso.

Provided that such goods have been specially and distinctly manifested or declared at the time of import as for transhipment to some other Customs or Foreign Port.

Rules regulating exercise of power, and transhipment.

32. The power conferred by section 31 shall be exercised, and the transhipment shall be performed, subject to such rules as may from time to time be made by the Local Government.

Entry and warehousing, on arrival, of goods transhipped under section 31, clause 2.

33. All goods transhipped under the second clause of section 31 for removal to a Customs-port shall thereupon be treated in all respects as warehoused goods, and 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, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last-mentioned goods:

Proviso.

Provided that, if on the arrival of the said goods at such Port, the owner desires forthwith to export the same by sea to some Foreign Port, or to pay duty thereon for home-consumption, without actually warehousing them, the Customs-collector at such Port may, after all the formalities of entering and examining such goods for re-warehousing have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home-consumption, upon payment of the duty thereon, in like manner as if such goods had been actually warehoused. All goods so exported, or on which duty has been so paid, shall be deemed to have been duly cleared from the warehouse.

Transhipment of stores from one vessel to another of same owner without payment of duty.

34. If two or more vessels belonging wholly or in greater part to the same owner be at any Customs-port at the same time, any provisions and other ship's stores in use or ordinarily shipped for use on board may, at the discretion of the Customs-collector, be transhipped from one such vessel to any other such vessel without payment of import-duty.

Officer of Customs to superintend transhipment.

35. An officer of Customs shall, in every case, be deputed to superintend the removal of transhipped goods from vessel to vessel.

Levy of transhipment-fee.

36. 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 rules as the Local Government, with the previous sanction of the Governor General in Council, may from time to time make by notification in the official Gazette.

Power to prohibit transhipment.

37. The Governor General in Council may from time to time, by notification 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.

Miscellaneous Provisions.

Owner, &c., to declare real value of goods in bill of entry or clearance, and, if necessary, to produce invoice, &c.

38. On the importation into, or exportation from, any Customs-port of any goods, whether liable to duty or not, the owner of such goods shall, in his bill of entry or shipping-bill, state their real value to the best of his knowledge and belief, and shall subscribe a declaration of the truth of such value at the foot of such bill.

In case of doubt, the Customs-collector may require any such owner or any other person in possession of any invoice, broker's note, policy of insurance or other document, whereby the real 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:

Provided that, if the owner makes a declaration before the Customs-collector to the effect that he is unable, from want of full information, to state the real value or contents of any case, package or parcel of goods, then the Customs-collector shall permit him, previous to the entry thereof (1) to open such case, package or parcel, and examine the contents in presence of an officer of Customs, or (2) to deposit such case, package or parcel in a public warehouse, pending production of such information.

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.

For the purposes of this section the real value shall be deemed to be—

(*a*) 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: or,

(*b*) where such price is not ascertainable, the estimated cost at which goods of the like kind and quality could be laid down at such place.

Nothing in this section applies to opium, salt or spirits.

Under-valued goods how dealt with.

39. 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 owner of the goods of their detention, and of the value thereof as estimated by him; and the Customs-collector 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 payment of duty charged according to the entry of such owner, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Customs-collector shall cause the full amount stated in the bill as their real value to be paid to the owner 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, or some mercantile newspaper circulating in the place.

If the proceeds arising from such sale shall exceed the sum paid to the owner, 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 or error, from permitting the owner of 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 39 for use of Government.

40. When goods are retained under section 39 for the use of Government, the duties payable thereon shall in no case be levied from the owner.

Claims to abatement of duty on account of damage how to be treated.

41. No claim for any abatement or refund of duty on account of damage alleged to have been sustained before delivery of the bill of 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 Customs-collector appoints for the purpose.

Disposal of damaged goods and levy of duty thereon.

42. 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 local newspaper, be sold by public auction at such time (within thirty days from the date of delivery of the bill of entry), and at such place, as the Customs-collector appoints.

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 have 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.

Date of importation how determined.

43. 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 is necessary to determine the exact date on which an importation of goods had effect,

such date shall be that on which the goods were actually entered for home-consumption at the Custom-house.

For the purposes of this section goods shall be deemed to be entered when the bill of entry thereof is delivered to the Customs-collector.

Date of exportation how determined.

44. If, in like manner, it is necessary to determine the exact date on which an exportation of goods had effect, such date shall 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.

45. 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 Madras, contracts with B, a resident there, to procure and deliver to him within one year a thousand gallons of champagne at Rs. 25 per gallon, duty paid. Subsequently, and before the contract is performed, the duty is raised from Rs. 1-8 to Rs. 2-8 per gallon. A is entitled to be paid at Rs. 26 per gallon instead of Rs. 25.

(*c*). 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 and 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.

46. 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 was 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. Transit shall be deemed to have commenced on the grant of port-clearance.

Payment of duties short-levied or erroneously refunded.

47. When Customs-duties or charges have been short-levied through inadvertence, error or misconstruction on the part of the officers of Customs,

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 three months from the date of the first assessment or making of the refund;

and the Customs-collector may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless application made within three months.

48. No Customs-duties or charges which have been paid, and of which repayment, wholly or in part, is claimed in consequence of the same having been paid under an erroneous construction of law or from other error, shall be returned, unless such claim is made within three months from the date of such payment.

Dutiable goods may be passed on security for duty.

49. No dutiable goods shall be passed for home-consumption unless the owner previously either pays the customs-duties leviable thereon, or furnishes security, to the satisfaction of the Customs-collector, for the payment of the same.

CHAPTER VI.

DRAWBACK.

Amount of drawback allowable on re-export.

50. Upon the re-export by sea to any Foreign Port, of any goods, except salt or opium, capable of being easily identified, imported by sea into any Customs-port from any Foreign Port, and upon which duties of Customs have been paid on importation, seven-eighths of such duty shall, except as otherwise provided in this chapter, be repaid as drawback:

Conditions for grant of drawback.

Provided that, in every such case, the goods be identified to the satisfaction of the Customs-collector at such Customs-port, and that the re-export be made within two years from the date of importation, as shown by the records of the Custom-house, or within such extended term as the Chief Customs-Authority, on sufficient cause being shown, in any case determines.

Drawback to be allowed on goods exported to Customs-port and thence to Foreign Port.

Drawback shall be allowed upon goods which, after having been charged with duty at one Customs-port and thence exported to another, are re-exported by sea to a Foreign Port:

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.

Drawback on exportation of spirit.

51. 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 Abkári 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 Abkári 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.

Drawback of duties on wine and spirits allowed for officers of Navy.

52. A drawback of the whole of the Customs-duties shall be allowed on wine and spirits 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 and spirits have been warehoused without payment of duty on the first entry thereof.

The quantity of wine and spirits on which drawback may be so allowed in any one year for the use of such officers shall not exceed the quantities hereinafter allowed for each such officer respectively; 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 or spirits for drawback to declare name and rank of officer claiming same.

53. Every person clearing and claiming drawback for wine or spirits, as provided in section 52, shall state in the entry the name of the officer for whose use such wine or spirits 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 and spirits shall be delivered into the charge of the officers of Customs deputed on this behalf 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 and spirits into his charge, and any such officer of Customs has certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine or spirits from one Naval officer to another, &c.

54. The Customs-collector may permit the transfer of any such wine or spirits from one Naval officer to another Naval officer on board of the same, or of any other such vessel, as part of his authorized quantity;

or may permit the transhipment of any such wine or spirits from one vessel to another for the use of the same Naval officer;

or the re-landing and warehousing of any such wine or spirits for future re-shipment.

The Customs-collector may also receive back the duties for any such wine or spirits, and allow the same to be cleared for home-consumption.

Provisions and stores for Her Majesty's Navy exempt from duty.

55. Provisions and other ship's stores for the use of Her Majesty's Navy may, in like manner, be transferred, transhipped or relanded and warehoused, 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 an 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.

Privilege extends to Indian Marine and Marine-survey.

56. Sections 52, 53 and 54 apply to officers of Her Majesty's Indian Marine and Marine-survey on board of any of the ships of such Marine or Survey proceeding to any port out of India, and section 55 applies to provisions and stores for the use of such Marine or Survey.

Governor General in Council may declare what goods are identifiable, and may prohibit drawback in case of specified Foreign Port.

57. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*a*) declare what goods shall, for the purpose of this chapter, be deemed to be capable of being easily identified;

(*b*) prohibit repayment as drawback upon the re-exportation of goods to any specified Foreign Port.

No drawback to be allowed in certain cases.

58. No drawback shall be allowed—

(*a*) upon goods not included in the export-manifest, or

(*b*) upon goods exported from one Customs-port to another, or

(*c*) where the goods to be exported are of less value than the amount of drawback claimed, or

(*d*) where the claim is for drawback amounting to less then ten rupees, and the Customs-collector thinks fit to reject it.

Time to claim and demand payment of drawback.

59. No drawback shall be allowed upon any goods re-exported from any Customs-port unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within six months 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.

Declaration to be made by parties claiming drawback.

60. 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.

CHAPTER VII.

ARRIVAL AND DEPARTURE OF VESSELS.

Power to fix places beyond which inward-bound vessels are not to proceed until manifest delivered.

61. The Local Government may, by notification in the official Gazette, fix a place in any river or Port, beyond which no vessel, whether laden or in ballast, arriving from any Foreign Port, shall pass until the Master thereof has delivered to the Pilot, officer of Customs or other person duly authorized to receive the same, a manifest as described in section 63.

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 remains outside or below the place so fixed, such Master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver such manifest to the Pilot, officer of Customs or other person authorized to receive the same.

Delivery of manifest where no place has been so fixed.

62. If any vessel, coming from any Foreign Port, arrives at any Customs-port in which a place has not been so fixed, the Master of such vessel shall, within twenty-four hours after anchoring, deliver a manifest to the Pilot, officer of Customs, or other person authorized to receive the same.

Description of manifest.

63. Every manifest shall be signed by the Master, and shall contain a true specification of all goods imported in such vessel, comprising such particulars, and made out in such form, as the Chief Customs-Authority may from time to time direct.

Amendment of errors in manifest.

The Customs-collector may permit the Master 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 be discretionary with such Customs-collector; 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.

Agent may deliver manifest.

64. Nothing contained in section 61, 62 or 63 shall prevent the delivery of the manifest, previous to the arrival of the vessel, by an agent duly appointed and approved, as defined in section 3, clause (*k*), of this Act.

Duty of person receiving manifest.

65. The Pilot, officer or other person so receiving the manifest shall countersign the same and enter thereon such particulars as the 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.

66. No vessel arriving in any Customs-port from any Foreign Port, 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 Customs-collector, and an order has been given thereon by such officer for the discharge of the cargo.

The Customs-collector 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 a Customs-collector 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.

67. The Master of every vessel arriving from any Foreign Port shall, at the time of applying for entry inwards at any Customs-port, deliver to the Customs-collector, 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 Customs-collector.

68. No vessel, whether laden, partially laden or in ballast, shall depart from any Customs-port until a port-clearance has been granted by the Customs-collector or other officer duly authorized to grant the same.

No vessel to depart without 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.

69. 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.

70. The Master of every vessel intending to leave any Customs-port shall, at the time of applying for port-clearance, deliver to the Customs-collector a manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs-Authority, containing a 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 so deliver such certificates as the Customs-collector acting under the general instructions of such Chief Customs-Authority, requires.

The Customs-collector 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 Customs-collector 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.

71. The Customs-collector may refuse port-clearance to any vessel until

Port-clearance may be refused unless certain conditions are fulfilled.

(*a*) the required manifest and certificates are produced;

(*b*) all Port-dues and other charges and penalties due by such vessel, or by the owner or Master thereof, have been duly paid, or their payment secured by such guarantee, or by a deposit at such rate as such Customs-collector directs;

(*c*) a bond and security for the clearance of the import manifest within a reasonable period have been given by a duly appointed and accepted agent for the Master, the amount of such security and the length of such period being fixed in each case by such Customs-collector.

CHAPTER VIII.

GENERAL PROVISIONS AFFECTING VESSELS IN PORT, &c.

72. The Customs-collector at any Customs-port may at any time depute at his discretion one or more officers of Customs to board any vessel arriving at such Port.

Power to depute officer of Customs to board ships.

Every officer of Customs so sent shall remain on board of such vessel by day and by night unless or until the Customs-collector shall otherwise order:

Provided that the Customs-collector may, on such conditions as he sees fit to impose, permit the discharge of cargo without the presence of an officer of Customs.

Proviso.

73. Whenever an officer of Customs is so deputed on board of any vessel, the Master of such vessel shall be bound to receive on board such officer, and 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.

Servant to be received with officer.

Accommodation of officer and servant.

74. Every officer of Customs so deputed 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.

Officers of Customs to have free access to every part of ship, and may seal and secure goods.

If any box, place or closed receptacle in any such vessel be locked, and the key be withheld, such officer shall report the same to the Customs-collector, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search.

Customs-collector may authorize search and opening of locks.

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 open the same.

75. A period of twenty working days, or such further period as the Customs-collector directs, shall be allowed for the discharge of import-cargo and the shipment of export-cargo on board of every vessel not exceeding six hundred tons.

Period allowed for discharge and shipment of 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 allowed number of working days, or for the services of several such officers (if available) for respective periods not exceeding in the aggregate such allowed number of working days.

If the period occupied in the discharge and shipment of cargo be in excess of twenty working days, together with the additional period (if any) allowed under the second clause of this section, the vessel shall be charged with the expense of the officer of Customs at a rate not

Consequence of exceeding same.

exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

In calculating any period allowed, or any charge made, under this section, due deduction shall 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, is laid up by the withdrawal of the officer of Customs upon application from the Master.

Allowance for period during which vessel is laid up.

76. Except with the written permission of the Customs-collector, no goods, other than passengers' baggage, shall be discharged from any vessel arriving at any Customs-port, or be shipped or water-borne for exportation or for carriage coastwise—

Goods not to be landed, shipped, or water-borne on Sundays, holidays, &c., without permission, nor except within fixed hours, &c.

(*a*) on any Sunday or on any holiday or day on which the discharge of cargo is prohibited by the Chief Customs-Authority;

(*b*) on any day, except between such hours as such Authority from time to time appoints by notification in the official Gazette;

(*c*) without the presence or authority of an officer of Customs:

nor, in the case of goods so shipped or water-borne,

(*d*) from any place in any such Port except a wharf duly appointed for such purpose;

(*e*) before due entry outwards of the exporting vessel and of the goods;

(*f*) before such goods shall have been duly cleared for shipment.

Nothing in this section shall prevent the Chief Customs-Authority from giving, by notification in the official Gazette, general permission for goods to be so shipped or water-borne in any Customs-port from all or any places not duly appointed as wharves, and without the presence or authority of an officer of Customs.

77. When any goods are water-borne for the purpose of being landed from any vessel and warehoused or passed for importation, or 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 for goods to be landed 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, and shall be delivered on arrival to any officer of Customs authorized to receive the same.

Each boat-note for goods to be shipped 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.

The officer of Customs who receives any boat-note of goods landed, and the officer of Customs, Master, or other officer as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the Chief Customs-Authority may from time to time direct.

The Local Government may from time to time suspend the operation of this section in any Customs-port or part thereof, and may cancel such suspension.

78. All goods water-borne for the purpose of being landed and warehoused, or passed for importation, or of being shipped for exportation, shall be so landed or shipped without any unnecessary delay.

Goods water-borne to be forthwith landed or shipped.

79. No goods discharged from any vessel under the authority of an officer of Customs shall be landed, except at a wharf or other place appointed for the landing of such goods.

Goods not to be landed elsewhere than at appointed wharf or place.

No such goods discharged into or loaded in any boat for the purpose of being landed or shipped shall be subsequently transhipped into any other boat without the permission of an officer of Customs.

80. The Local Government may declare with regard to any Customs-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.

Power to prohibit plying of unlicensed cargo-boats.

In any Port with regard to which such notification has been issued, the Chief Officer of Customs or other officer whom the Local Government appoints in this behalf, 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 by notification in the official Gazette.

Issue of licenses.

81. The Customs-collector, 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-collector may require goods to be weighed or measured on board before landing.

82. Any officer of Customs may open any package, and fully examine any goods brought by sea, or shipped or brought for shipment at any Customs-port.

Customs-officer may open package and examine goods shipped.

83. The Customs-collector 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.

Customs-collector may take samples of goods.

Every such sample shall, if the owner so desire, and if it be possible, be restored to him; otherwise it shall be disposed of and accounted for to him as the Customs-collector directs.

84. 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, marking and numbering of goods, where such operations are necessary or permitted,

Owner to pay expense incidental to compliance with Custom-house rules.

and the removing of goods to, and the placing of them in, the proper place of deposit,

shall be performed by or at the expense of the owner of such goods.

Fee for landing baggage.

When any goods, 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.

No compensation for loss or injury except on proof of neglect or wilful act.

85. No owner 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 of any officer of Customs, unless it be proved that such loss or injury was occasioned by the neglect or wilful act of an officer of Customs.

Rates of wharfage-fees.

86. The Chief Customs-Authority may from time to time fix the period after the expiration of which goods left on any Custom-house wharf or other authorized landing place, or part of the Custom-house premises, shall be subject to payment of fees, and the amount of such fees.

Duplicates may be granted and amendments made on payment of fee.

87. A duplicate of any certificate, manifest, bill or other Custom-house document may, on payment of a fee not exceeding ten rupees, be furnished, at the discretion of the Customs-collector, 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.

Owner to deliver duplicate of bill of entry or shipping-bill, if required.

88. Upon the entry or clearance of any goods for importation or exportation, the owner shall, if the Customs-collector so requires, deliver to such officer a duplicate of the bill of entry or shipping-bill thereof.

Agents must be duly authorized.

89. 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 Customs-collector.

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 Customs-Authority, whose decision thereon shall be final.

Agent to produce authority if required.

90. When any person makes application to any officer of Customs for permission to transact any business with him 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 such permission.

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 such clerk, servant or agent to the Customs-collector as empowered to transact his or their business, and deposits with such officer an authority in writing duly signed, authorising such clerk, servant or agent to receive all drawbacks, refunds and other moneys or transact other business on behalf of such person or firm.

CHAPTER IX.

IMPORTATION OR DISCHARGE.

Discharge of cargo may commence on receipt of due permission.

91. Whenever an order or a special pass, permitting any vessel which has arrived in any Customs-port from any Foreign Port to break bulk, has been duly issued under section 66, the discharge of the cargo of such vessel may be proceeded with.

Portion of import-cargo intended for another Port, ship's stores, &c., may be kept on board free of duty.

92. Any portion of an import-cargo intended for another Port, or any ship's stores intended for consumption in Port or on the home-ward voyage, may be declared by the Master of any vessel as not to be landed, and may thereupon, with the special sanction of the Customs-collector, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of duty:

Provided that all such cargo and ship's stores, excepting any ship's stores which may be duly transferred to another ship under section 34, 54 or 55, 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.

The Customs-collector, or any officer deputed by him under section 72, may seal up, or otherwise secure, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

Goods not to leave ship unless entered in manifest.

93. No goods shall be allowed to leave any vessel, unless they be duly entered in the original manifest of such vessel, or in an amended or supplementary manifest duly received under section 63.

Procedure in respect of goods not landed within time allowed.

94. If the owner of any goods (except such as have been declared by the Master as not to be landed), 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 longer period as the bill of lading of such vessel specifies; or if any period less 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 owner of such cargo, or part thereof, does not land the same within such specified period; or

Effect of not discharging cargo in any less period specified in bill of lading.

if the cargo of any vessel, with the exception of only a small quantity of goods, has been discharged previously to the expiration of the period so appointed or specified, as the case may be,—

the Master of such vessel, or a duly authorized officer of Customs, on his application, may then carry such goods to the Custom-house.

The Customs-collector shall thereupon take charge of and grant receipts for such goods;

and if notice in writing has been given by the Master 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 receives notice in writing that the said charges are paid.

Goods may be landed at any time after arrival, with consent.

95. At any time after the arrival of any vessel, the Customs-collector 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 this Act for the landing of such package or parcel.

Notice regarding unclaimed packages.

96. If any package or parcel carried to the Custom-house under section 95 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 94, 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.

97. If the duties chargeable upon any goods carried to the Custom-house under section 94 or 95, 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 owner of the goods, 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 Customs-collector 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.

Immediate discharge permitted in certain cases.

98. Nothing in sections 93 to 97 inclusive shall prevent the Customs-collector in any Customs-port to which the Local Government, by notification in the official Gazette, declares this section to be applicable, from permitting the Master of any vessel immediately on receipt, under section 66, of an order or special pass, to discharge the cargo of such vessel or any portion thereof—

(*a*) at the Custom-house or any specified landing-place or wharf;

(*b*) at any landing-place or wharf belonging to any Port Commissioners, Port Trust or other duly constituted and responsible public body or company;

(*c*) into the custody of responsible and authorized agents of the ship, if willing to receive the same, for the purpose of landing the same forthwith at the Custom-house or any such landing-place or wharf.

The Customs-collector shall take charge of all goods or cargo so landed, and otherwise proceed in relation thereto as provided in the said sections.

Any such ship's agent so receiving any goods or cargo shall be responsible to pay all claims for damage or short delivery which may be established by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like claimed by any agent or consignee previously constituted by the owner.

Goods not cleared within two months from date of landing to be sold.

99. If any goods be not cleared for home-consumption or for warehouse within two months from the date of landing thereof, or within such further period as the Customs-collector directs, such goods may, after due notice in the official Gazette, be sold by public auction, and the proceeds thereof shall be applied to the payment of duties and other charges to which the same were liable.

Disposal of overplus.

The overplus, if any, shall be paid to the owner of the goods 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.

Entry for home-consumption.

100. The owner of any dutiable goods intended to be delivered for home-consumption on the landing thereof from the importing ship, shall make entry of such goods by delivering to the Customs-collector 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.

The delivery of such bill shall be deemed to have taken place on the date of the first presentation of such bill to an officer of customs duly authorized to receive the same.

The passing of such bill by an officer of customs duly authorized in that behalf shall be sufficient authority for the removal of the goods by the owner.

CHAPTER X.

WAREHOUSING.

101. 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 warehouse appointed or licensed under this Act.

Deposit of goods in warehouse without payment of duty.

102. Every public warehouse appointed under section 14 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 105 and 117 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.

103. 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.

Chief Customs-Authority to decide where any 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.

104. Every application for the admission of goods into any warehouse shall be in writing, and shall be drawn up in such 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.

105. 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 unless assessed for Customs-duty.

Nothing in this section shall

(*a*) preclude the temporary deposit of goods in a public warehouse under section 38; or

Saving of re-assessment of warehoused goods on clearance for home-consumption.

(*b*) 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 43.

106. When an application has been made for the warehousing of any goods, and when such goods have been assessed for duty as directed in section 105, the owner shall execute a bond for the amount of such duty in the Form marked A hereto annexed, or when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-Authority.

Bond for duty on goods sought to be warehoused. Form of bond.

Every such bond shall relate to the duties chargeable on the cargo or portion of the cargo of one vessel only.

107. 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 provisions of this Act in respect to the same.

Every such bond shall, unless the Chief Officer of Customs in any case deems a fresh bond to be necessary, continue in force, notwithstanding their subsequent removal to another warehouse or warehousing port.

108. When any such bond has been executed, in respect of any goods, such goods shall be allowed to be warehoused for a period not exceeding three years, without being liable to import-duty:

Period for which goods may remain warehoused under bond.

Provided that if the license for any private warehouse be withdrawn, every bond executed for duty chargeable on goods deposited in such 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 Customs-collector has given notice of such withdrawal, unless the owner of the goods has in the interval obtained permission for their removal to another warehouse.

When bond for duty on goods in private warehouse may be sued on.

109. When the provisions of sections 104 to 107 (inclusive) 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.

A pass shall be sent with the goods specifying 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.

On receipt of the goods into the warehouse, the pass shall be examined by the warehouse-keeper, and shall be returned to the Customs-collector. If the pass be found to be correct, the warehouse-keeper shall certify to that effect thereon, and the warehousing of such goods shall be deemed to have been completed.

If the quantity or value of any goods has been erroneously stated on importation, the error may be rectified at any time before the warehousing of the goods is completed.

110. No package, butt, cask or hogshead shall be admitted into any 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.

111. All goods shall be warehoused in the packages, butts, casks or hogsheads in which they have been imported, except as provided in section 116.

Goods how warehoused.

112. Whenever 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 B 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.

Nothing in this section shall, if the Local Government so direct, apply to salt.

113. The Customs-collector 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.

114. The Customs-collector may at any time by order in writing direct any goods or packages lodged in any warehouse to be opened, weighed or otherwise examined; 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 the permission of the Customs-collector; and when any such goods are opened with such permission, the packages shall, if he thinks fit, be again sealed or marked as before.

115. Any owner of goods lodged in a warehouse under this Act, 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, upon application for the purpose being made in writing to the Customs-collector, be deputed to accompany such owner.

Access of owners to warehoused goods.

When an officer of Customs is specially employed to accompany such owner, a sum sufficient to meet the expense thereby incurred shall be paid by such owner to the Customs-collector, and may be required by the Customs-collector to be paid in advance.

116. With the sanction of the Customs-collector, and after such notice given, and under such rules and conditions as the Chief Customs-Authority from time to time prescribes, any owner of goods may, either before or after warehousing,—

Goods in warehouse may be sorted, repacked, &c., by owner, &c.

(*a*) sort, separate, pack and repack any goods, and 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 Customs-collector permits);

(*b*) fill up any casks of wine, spirits or beer from any casks of the same secured in the same warehouse;

(*c*) mix any wines of the same sort secured in the same warehouse, erasing from the cask all import-brands, unless the whole of the wine so mixed be of the same brand;

(*d*) bottle off wine or spirits from any casks;

(*e*) take such samples of goods as may be allowed by the Customs-collector with or without entry, and with or without payment of duty, except such as 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 Customs-collector may, at the request of the owner of such goods, 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.

117. If any goods warehoused, or entered to be warehoused, or 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 lost or destroyed in a private warehouse, notice thereof be given to the Customs-collector within forty-eight hours after the discovery of such loss or destruction.

If goods lodged in a warehouse receive damage through unavoidable accident, they shall be re-assessed 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.

118. The import-duty on all goods warehoused or to be warehoused shall, subject to section 105, clause 3, be assessed 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.

Provided that, if it appear at the time of clearing any wines, spirits, beer or salt from any warehouse that a deficiency not otherwise accounted for 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:

Proviso as to wines, spirits, beer or salt.

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.

119. 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

Allowance for ullage or wastage in case of wines, &c., lodged in private warehouse.

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 purpose of exemption from the penalty to which the licensee of such warehouse would otherwise be liable under section 164, No. 50, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in section 118.

120. The warehouse-keeper in respect of goods lodged in a public warehouse, and the licensee 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 sections 118 and 119.

Public warehouse-keeper or licensee of private warehouse answerable for weight or gauge.

No owner of goods shall be entitled to claim from the Customs-collector, 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.

121. Any owner of goods warehoused under this Act, may, with the permission of the Chief Customs-Officer, and on such conditions and after giving such security (if any) as such officer directs, remove goods from one warehouse to another warehouse in the same Port.

Power to remove goods from one warehouse to another in same Port.

When any person desires so to remove any goods, he shall make application in such form as the Chief Customs-Authority from time to time prescribes.

122. Goods warehoused 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 owner desires so to remove any goods, he shall apply to the Chief Customs-Officer, stating the particulars of the goods to be removed, and the name of the Port 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.

123. When permission is granted for the removal of any goods from one warehousing Port to another under section 122, an account containing the particulars thereof shall be transmitted by the proper officer of the Port of removal to the proper officer of the Port of destination; and the owner 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 re-warehousing thereof at the Port of destination within such time as the Chief Customs-Authority directs.

Officers at Port of removal to transmit account of goods to officers at Port of destination.

Owner to execute bond for due arrival, &c.

Such bond may be taken by the proper officer, either at the Port of removal or at the Port of destination, as best suits the residence or convenience of the owner.

If such bond is taken at the Port of destination, a certificate thereof, signed by the proper officer of such Port, shall, at the time of the entering of such goods, be produced to the proper officer at the Port 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 of destination within the time allowed for such removal, or are otherwise accounted for to the satisfaction of such officer; nor until the full duty due upon any deficiency of such goods, not so accounted for, has been paid.

124. 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, and for the due arrival and re-warehousing of such goods at the Port of destination within such time as such Authority directs.

Remover may enter into a general bond.

125. Upon the arrival of warehoused goods at the Port 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 are 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.

126. When any warehoused goods are removed from any warehouse, the Customs-collector 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 paid (if any).

127. No goods shall be removed from any warehouse, except after application to the Customs-collector for permission to pass the goods

Goods not to be removed from warehouse, except after application to Customs-collector.

(*a*) for exportation by sea to some Foreign Port; or

(*b*) for home-consumption, in like manner as is prescribed by section 98 for goods entered for home-consumption on the landing thereof; or

(*c*) for removal to another warehouse, as provided in sections 121 to 124 inclusive;

and after grant of such permission.

128. Application to remove goods from any warehouse shall be made in such 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 Customs-collector twenty-four hours before it is intended, so to remove such goods.

Twenty-four hours' notice to be given.

129. If any goods lodged in a warehouse are removed from the warehouse otherwise than for removal to another warehouse, as provided in sections 121 to 124, inclusive, or for exportation by sea to some Foreign Port;

On goods being removed improperly or 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 Customs-collector shall thereupon demand, and the owner of such goods shall forthwith pay, the full amount of 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 121 to 124, inclusive, or for exportation by sea to some Foreign Port, no duty shall be then so demanded.

130. If any owner fails to pay on demand any duty or penalty that falls due on account of goods warehoused under this Act, the Customs-collector may forthwith either proceed upon the bond executed by such owner, or cause such portion as to him seems fit of the warehoused goods on account of which the duty or penalty is due, 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 owner), 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 owner 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 Customs-collector from proceeding against such goods in the manner above provided, for any Customs-duties or penalty due thereon.

131. The expenses of carriage, packing and stowage of goods on their reception into or removal from a warehouse shall, if paid by the Customs-collector or by the warehouse-keeper, be chargeable on the goods, and be defrayed by, and recoverable from, the owner, in like manner as Customs-duties.

Expenses of carriage, packing, &c., to be borne by owners.

132. If goods be lodged in a public warehouse, the owner shall further pay monthly, on receiving a bill or written demand for the same from the Customs-collector or other officer deputed by him in that behalf, the rent and warehouse-dues.

Payment of rent and warehouse-dues.

If any such bill for rent or warehouse-dues be not discharged on demand, the Customs-collector may forthwith proceed to recover the amount in the manner provided in section 130, in the case of failure to pay duty.

In case of failure, goods may be sold, &

133. A register shall be kept of all bonds entered into for Customs-duties on warehoused goods, and entry shall be made in such register of all particulars specified in section 126.

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 a warehouse, or otherwise duly accounted for, and when all charges and penalties which have been incurred on account of such goods have been paid, the Customs-collector shall cancel such bond as discharged in full, and deliver it, so cancelled, to the person who has executed or who is entitled to receive it.

When bonds are to be cancelled and returned to obligee.

134. 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.

Duty on warehoused goods to be settled within three years.

135. 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 XI.

EXPORTATION OR SHIPMENT, AND RE-LANDING.

136. 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 Customs-collector by the Master of such vessel, 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.

137. Unless the Chief Customs-Authority shall, in the case of any Customs-port or wharf, or of any class of goods, otherwise direct by notification in the official Gazette, no goods, except

Exporter to deliver shipping-bill before shipping any goods.

passengers' baggage, shall be shipped or water-borne to be shipped for exportation, until the owner has filled in and delivered to the Customs-collector, or other proper officer, a shipping-bill of such goods in such form as may from time to time be prescribed by the Chief Customs-Authority.

138. Before any warehoused goods or goods subject to excise-duties, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the owner shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Customs-collector 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.

139. 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.

Additional charge on goods passed for shipment after port-clearance has been granted.

Nothing in this section shall apply to any shipment of treasure or opium.

140. If any goods mentioned in a shipping-bill be not shipped, or be shipped and afterwards re-landed, the owner shall give information of such short-shipment or re-landing to the officer in charge of the Custom-house 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. Upon an application being made to the Customs-collector, any 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: Provided that no such refund shall be allowed unless information has been given as above required.

Notice of non-shipment or re-landing, and return of duty thereon.

Proviso.

141. 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 of goods in such vessel, if he desires to land or tranship the same or any portion thereof for re-export, may make application to the Customs-collector.

Goods re-landed or transhipped from a vessel returning to Port, or putting into another Port.

Such officer, if he grant the application, shall thereupon send an officer of Customs to watch the vessel, and to take charge of such goods during such re-landing or transhipment.

Such goods 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 they are lodged and remain under charge of an officer of Customs, in a place appointed by the Customs-collector until the time of re-export, or are transhipped direct under such charge.

All expenses attending such custody shall be borne by the owner.

142. In either of the cases mentioned in section 141, the Master of the vessel or any owner of goods therein, may enter such vessel and land such goods under the rules for the importation of goods.

Vessel returning to Port may enter and land goods under import-rules.

In every such case any export-duty levied shall be refunded to, and any amount paid in drawback shall be recovered from, such owner.

CHAPTER XII.

SPIRITS.

143. The Chief Customs-Authority may from time to time make rules prescribing the conditions on which spirits manufactured in British India after the English method may be removed from any licensed distillery for exportation without payment of excise-duty.

Rules for removal of spirits from distillery without payment of duty, and for exportation thereof.

The person so removing any such spirits shall execute a bond with one or more sureties, in the Form marked C hereto annexed, or, when such form is inapplicable or insufficient, in such other form as the said Authority from time to time prescribes, conditioned that duty shall be paid on any portion of such spirits not exported within four months from the date of the bond, or any portion thereof exported to a Port in British India not being a Customs-port, the landing and payment of Customs-duty in respect of which at the Port of destination is not proved 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.

144. Spirits for exportation under bond for the excise-duty shall be taken from the distillery direct to the Custom-house, under passes to be granted for that purpose by the officers of Excise.

Spirits for export to be taken direct from distillery to Custom-house under pass.

145. Spirits brought to the Custom-house for exportation by sea shall, previous to shipment, be gauged and proved by an officer of Customs.

Rules to be observed in exportation of spirits.

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.

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.

Duty to be recovered on any deficiency in spirits under bond.

147. A drawback of excise-duty paid on spirits manufactured in British India after the English method, and exported to any Foreign Port under the provisions of section 138, shall be allowed by the Customs-collector at the Port of exportation:

Drawback of excise-duty on spirits manufactured after English method.

Provided that the exportation be made within one year from the date of payment of such excise-duty, and that the spirits, when brought to the Custom-house, be accompanied by the pass in which such payment is certified.

148. No drawback shall be allowed on spirits exported from any Customs-port to any other Customs-port.

No drawback allowed on spirits exported from one Customs-port to another, but such spirits may be exported under bond.

But spirits manufactured in British India after the English method may, on the conditions and under the rules from time to time prescribed under section 138, be exported from any such Port to any other such Port, under bond for the excise-duty.

Every such bond shall be cancelled on the production by the owner 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.

149. Spirits manufactured in British India after the English method and exported under bond for the excise-duty from any Customs-port to any other Customs-port, shall be chargeable at the Port of importation with Customs-duties at the ordinary rate fixed for duties on spirits of the like kind and strength imported into such Port.

Duty on spirits exported under bond from one Indian Port to another, how adjusted.

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.

Rum-shrub &c., how to be charged with duty.

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.

May be exported under same rules as spirits.

When any such liquor is removed for exportation without payment of excise-duty, the bond to be executed by the person removing it shall be in the Form marked C hereto annexed, or, when such form is inapplicable or insufficient, in such other form as may from time to time be prescribed by the Chief Customs-Authority.

151. Spirits brought to the Custom-house for exportation under bond for the excise-duty may, on payment of such duty, be removed for local consumption under passes to be granted for that purpose by the officers of Excise.

Spirits intended for exportation may be removed for local consumption.

Credit for every such payment shall be given in discharge of the bond to which it relates.

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.

Conditions of drawback and remission of duty on spirits.

Spirits shipped for exportation shall not be relanded without a special pass from an officer of Excise, in addition to the usual order of the Customs-collector.

Re-land of spirits shipped.

153. The Local Government may from time to time make 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 Customs-duties leviable thereon are 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.

In the absence of any such rules, or if any dispute arises as to their applicability, the Chief Customs-Officer 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 XIII.

COASTING TRADE.

154. Nothing in chapters VII, IX, X, XI and XII of this Act affects coasting vessels:

Application of Act to coasting vessels.

Provided that the Governor General in Council may from time to time, by notification in the *Gazette of India*, declare coasting vessels to be affected by the whole, or any specified portions, of the said chapters, or not to be affected by any such portions of the remainder of this Act.

155. The Governor General in Council or the Local Government may from time to time make rules prescribing the conditions on which goods, or any specified class of goods, may be—

Power to regulate carriage of goods coastwise.

(*a*) carried in a coasting vessel, whether shipped at a Foreign Port or at a Customs-port to be so carried;

(*b*) shipped in a coasting vessel before all goods brought in such vessel from a Foreign Port have been unladen;

and may prohibit the conveyance of any specified class of goods generally, or to or between specified Ports.

Coasting vessels to deliver account and obtain port-clearance before leaving Port of lading.

156. Before any coasting vessel departs from the Port of lading, an account with a duplicate thereof, in the Form marked D hereto annexed, with such additional particulars (if any) 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 Customs-collector.

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 require bond before port-clearance is granted.

157. The Customs-collector may, for sufficient reason, refuse port-clearance to any vessel declared to be bound to, or about to touch at, any Customs-port, unless the owner or Master gives a bond with sufficient security for the production to the Customs-collector 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.

Time for delivery of pass.

158. 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 Customs duly authorized to receive the same, and he shall note thereon the date of delivery.

Goods on coasting vessel, if excisable, not to be unladen without permission.

159. If any of the goods on board of any coasting vessel be subject to any excise-duty, they shall not be unladen without the permission of the proper officer of Excise.

Grant and revocation of general pass.

160. 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.

Such pass shall be valid throughout India, or for such Ports only as may be specified therein.

Any such general pass may be revoked by notice in writing under the hand of such authority, delivered to the Master or to the owner of such steam-vessel, or to any of the crew on board.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

161. 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.

162. The Governor General in Council or the Local Government may, from time to time, make rules for the guidance of the Masters of all other coasting vessels, as to the matters mentioned in section 161.

Power to board and examine any coasting vessel.

163. 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 Customs-collector may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection.

CHAPTER XIV.

OFFENCES AND PENALTIES.

Punishments for offences.

164. The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively:

Offences.	Section of this Act to which offence has reference.	Penalties.
1.—Contravening any rule made by the Chief Customs Authority.	7	Penalty not exceeding five hundred rupees.
2.—If any goods be landed or shipped, 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,	11	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.
3.—If any person ship or land goods, or aid in the shipment or landing of goods, or knowingly keep or conceal, or knowingly permit or procure to be kept or concealed, any goods shipped or landed, or intended to be shipped or landed, contrary to the provisions of this Act; and if any person be found to have been on board of any vessel liable to confiscation under clause 2, 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,	11	such person shall be liable to a penalty not exceeding one thousand rupees.
4.—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 in British India where such vessel lawfully discharged her cargo,	11	such vessel shall be liable to confiscation.
5.—If any goods are 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; or if any goods are put, without such authority, out of any tug-steamer or pilot-vessel for the purpose of being put on board of any such outward-bound vessel; or if any goods on which drawback has been granted are put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being re-landed,	11	such goods shall be liable to confiscation, and the Master of such tug-steamer, pilot-vessel or sea-going vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
6.—If any vessel arriving at, or departing from, any Customs-port from any Foreign Port fails, when so required under section 16, 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,	16	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
7.—If any vessel arriving from any Foreign Port 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 Conservator, obtained in accordance with the provisions of the Indian Ports Act, 1875, or other lawful authority, directly to some other place of mooring or unlading, or if any small vessel be not anchored or moored in accordance with any direction of the Chief Customs-Authority under section 16,	16	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees, and the vessel, if not entered, shall not be allowed to enter until the penalty is paid.
8.—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; 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,	19	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.
9.—Contravening any rule regarding the process of transhipment made by the Local Government, or	32	Penalty not exceeding one thousand rupees.
any order relating to transhipment notified by the Governor General in Council,	37	
10.—If any person subscribes or attests any declaration of the real value of any goods upon an application to pass such goods through the Custom-house, not being the owner of such goods, or not having proper and sufficient authority from the owner,	38	such person shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
11.—If any wine, spirits or ship's stores be not laden on board of the ship for which they were intended, or be unladen from such ship without the permission of the proper officer of Customs,	52 to 56	such wine, spirits or ship's stores shall be liable to confiscation.
12.—If any goods be entered for drawback, which are of less value than the amount of the drawback claimed,	58	such goods shall be liable to confiscation.
13.—If any goods, on the entry of which for re-export drawback has been paid, are not duly exported to a Foreign Port, or are unshipped or relanded at any Customs-port (not having been duly relanded or discharged as short-shipped under the care of an officer of customs, or under section 140 or section 141),	60	such goods, together with any vessel used in so unshipping or relanding them, shall be liable to confiscation; and the Master of the vessel from which such goods are so unshipped or relanded, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such unshipping or relanding, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.
14.—If, in any river or Port wherein a place has been fixed under section 61 by the Local Government, the Master of any vessel arriving from a Foreign Port wilfully omits, before passing beyond such place, to deliver to the pilot, officer of customs, or other person duly authorized to receive the same, a manifest; or if the Master of any vessel so arriving which remains outside or below any such fixed place, wilfully omits, for the space of twenty-four hours after anchoring, so to deliver a manifest,	61	such Master shall be liable to a penalty not exceeding one thousand rupees.
15.—If, after any vessel arriving from any Foreign Port has entered any Customs-port in which a place has not been fixed under section 61, the Master of such vessel wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by that section,	62	ditto ditto.
16.—If the manifest delivered by any Master of a vessel under section 61, 62 or 70 be not signed by such Master and in the form and containing the particulars duly required under section 63, 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,	63 & 70	ditto ditto.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
17.—If any pilot, officer of Customs or other person authorized to receive a manifest from any Master of a vessel, refuses so to do, or fails to countersign the same or to enter thereon the particulars referred to in section 65,	65	such pilot, officer of Customs or other person shall be liable to a penalty not exceeding five hundred rupees.
18.—If bulk be broken in any vessel previous to the grant of an order or special pass by the Customs-collector, permitting bulk to be broken,	66	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
19.—If any bill of lading or copy required under section 67 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; 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 Customs-collector,	67	the Master of the vessel shall be liable to a penalty not exceeding one thousand rupees.
20.—If any Master of a vessel attempts to depart without a port-clearance,	68	such Master shall be liable to a penalty not exceeding five hundred rupees.
21.—If any vessel actually departs without a port-clearance,	68	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
22.—If any pilot takes charge of any vessel proceeding to sea, notwithstanding that the Master of such vessel does not produce a port-clearance,	69	such pilot, on conviction before a Magistrate, shall be liable to a penalty not exceeding one thousand rupees.
23.—If any Master of a vessel refuses to receive on board an officer of Customs deputed as provided in section 72,	72	such Master 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 such penalty is paid.
24.—If any Master of a vessel refuses to receive on board one servant of such officer, or to provide such officer and servant with suitable shelter and accommodation, and with a due allowance of fresh water, and with the means of cooking on board,	73	such Master shall, in each such case, be liable to a penalty not exceeding five hundred rupees.
25.—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; or	74 & 92	the Master of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
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,		
26.—If the Master of any vessel laid up under section 75 by the withdrawal of the officer of Customs shall, before application is made by him 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,	75	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.
27.—If any Master of a vessel causes or suffers any goods to be discharged, shipped, or water-borne contrary to any of the provisions of section 76,	76	such Master shall be liable to a penalty not exceeding one thousand rupees; and all goods so discharged, shipped, or water-borne shall be liable to confiscation.
28.—If any goods water-borne for the purpose of being landed from any vessel, and warehoused or passed for importation, or of being shipped for exportation, be found without the boat-note required by section 77; or if any goods are found on board any boat in excess of the bote-note or Custom-house pass, whether such goods are intended to be landed from, or to be shipped on board of, any vessel,	77	such goods shall be liable to confiscation; and the person by whose authority the goods are being landed or shipped, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty leviable on the said goods.
29.—If any Master or officer of a vessel refuses to receive, or fails to sign, or to note the prescribed particulars upon, any boat-note, in accordance with section 77, or receiving the same fails to deliver it when required so to do by any officer of Customs authorized to make such requisition,	77	such Master or officer shall be liable to a penalty not exceeding five hundred rupees.
30.—If any goods water-borne for the purpose of being landed or shipped for importation, are not landed or shipped without unnecessary delay; or if the boat containing such goods be found out of the proper track between the vessel and the wharf or other proper place of landing or shipping, and such deviation be not accounted for to the satisfaction of the officer in charge of the Custom-house; or if any goods are landed or transhipped contrary to the provisions of section 79,	78 & 79	such goods, together with any vessel or boat employed in conveying them, shall be liable to confiscation; and the person by whose authority the goods are water-borne, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of the duty leviable on such goods.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
31.—If, after the issue of a notification under section 80 with regard to any Port, any goods are found within the limits of such Port on board of any boat not duly licensed and registered,	80	such goods, unless they are covered by a special permit from the officer in charge of the Custom-house, shall 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.
32.—If any owner of goods, upon the entry or clearance thereof, wilfully fails to deliver, if duly required, a duplicate of the bill of entry or shipping-bill thereof,	88	such owner shall be liable to a penalty not exceeding two hundred rupees.
33.—If any person, not being authorized under section 89, acts as an agent for the transaction of business as therein mentioned,	89	such person shall be liable to a penalty not exceeding five hundred rupees.
34.—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,	93	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.
35.—If any Master of a vessel discharges or suffers to be discharged any goods not duly entered in the manifest of such vessel,	93	such Master shall be liable to a penalty not exceeding one thousand rupees.
36.—If any goods are found concealed in any place, box or closed receptacle in any vessel, and are not duly accounted for to the satisfaction of the officer in charge of the Custom-house,	93	such goods shall be liable to confiscation.
37.—If any goods are found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained,	93	such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the chief officer of Customs directs.
38.—If, after any goods have been landed and before they have been passed through the Custom-house, the owner removes or attempts to remove them, with the intention of defrauding the revenue,	100	such goods shall be liable to confiscation; 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.
39.—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	100 & 38	such packages, together with the whole of the goods contained therein, shall be liable to confiscation, and

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
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,		any person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees.
40.—If, when goods are passed by tale or by package, any omission or misdescription thereof tending to injure the revenue be discovered,	100 & 109	the owner of such goods shall 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.
41.—If, without entry duly made, any goods are taken or passed out of any Custom-house or wharf,	100	the person so taking or passing such goods shall, in every such case, be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation.
42.—If any prohibited or dutiable goods are found, either before or after landing, concealed in any passenger's baggage,	100	such goods, together with the other contents of the package in which they are found, shall be liable to confiscation.
43.—If any goods entered to be warehoused 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,	109	such goods shall be liable to confiscation, and any person so carrying them shall be liable to a penalty not exceeding one thousand rupees.
44.—If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or withheld, or removed from any proper place of examination before they have been examined and certified by the proper officer,	109	such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.
45.—If any warehoused goods be not warehoused in accordance with section 110 or 111,	110 & 111	such goods shall be liable to confiscation.
46.—If the licensee of any private warehouse licensed under this Act does not open the same when required so to do by any officer entitled by law to have access thereto, or, upon demand made by any	113	such licensee shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
such officer at any time within the hours of business at the Port, refuses access to any such officer,		
47.—If the keeper of any public warehouse, or the licensee of any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof,	113	such keeper or licensee shall, for every such neglect, be liable to a penalty not exceeding fifty rupees.
48.—If the owner of any warehoused goods, or any person in the employ of such owner, clandestinely opens any warehouse, or, except in presence of the proper officer of Customs, gains access to his goods,	115	such owner or person shall, in every such case, be liable to a penalty not exceeding one thousand rupees.
49.—If any alteration be made in goods duly warehoused, or in the packing thereof, except as provided in section 116,	116	such goods shall be liable to confiscation.
50.—If any goods lodged in a private warehouse are found to be deficient at the time of delivery therefrom,	120	the licensee of 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.
51.—If the keeper of any public warehouse, or the licensee of 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,	120	such keeper or licensee 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.
52.—If any goods entered to be warehoused are, after being duly warehoused, 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,	127	such goods shall be liable to confiscation, and any person concerned in any such offence shall be liable to a penalty of one thousand rupees.
53.—If any goods lodged in a private warehouse are found to exceed the registered quantity,	127	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.
54.—If any goods be removed from the warehouse in which they were originally deposited, except in the presence, or with the sanction, of the proper officer, or under the proper authority for their delivery,	127	such goods shall be liable to confiscation, and any person so removing them shall be liable to a penalty not exceeding one thousand rupees.
55.—If any person illegally takes any goods out of any warehouse without payment of duty, or aids, assists, or is concerned therein,	127	such person shall be liable to a penalty not exceeding one thousand rupees.
56.—If any goods be taken on board of any vessel at any Customs-port before she has been entered outwards at such Port, in accordance with section 136,	136	the Master of such vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
57.—If any goods not enumerated in the manifest, or in a duly passed shipping-bill, are taken on board of any vessel,	137	the Master of such vessel shall be liable to a penalty not exceeding fifty rupees for every package of such goods.
58.—If any goods, whether liable to duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, or otherwise, which are enumerated in the manifest of any vessel, or in any shipping-bill, are not duly shipped before the departure of such vessel, or are relanded; and notice of such short shipment or relanding be not given as required in section 140,	140	such goods shall be liable to confiscation.
59.—If any goods duly shipped on board of any such vessel be landed, except under section 141, at any place other than that for which they have been cleared,	141	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.
60.—If any goods on account of which drawback has been paid be not found on board of any vessel referred to in section 141,	141	the Master of such vessel shall be liable to a 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.
61.—If any person wilfully contravenes any rule relating to spirits made under section 143 or 153,	143 & 153	such person shall be liable to a penalty not exceeding five hundred rupees.
62.—If any person, without a special pass from an officer of excise at the place of exportation, relands or attempts to reland any spirituous liquor shipped for exportation,	152	such persons shall be liable to a penalty not exceeding five hundred rupees; 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.
63.—If, in contravention of any rules made under section 155, any goods are taken into, or put out of, or carried in, any coasting vessel; or if, contrary to any such rules, any coasting vessel touches at any Foreign Port, 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 fails to declare the same in writing to the Customs-collector at the Customs-port at which such vessel afterwards first arrives,	155	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, in addition to the ordinary duty, which shall in every case be levied on such goods.
64.—If any account required by section 156 be false,	156	the Master filling in or signing the same shall be liable to a

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
		penalty not exceeding five hundred rupees.
65.—If failure to produce the certificate mentioned in section 157, or to show sufficient reason for its non-production take place,	157	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.
66.—If any Master of a coasting vessel arriving at the Port of discharge fails, within twenty-four hours after arrival, to deliver a pass as required by section 158,	158	such Master shall be liable to a penalty not exceeding two hundred rupees.
67.—If upon examination, any package entered in the cargo-book required by section 161, as containing dutiable goods, is found not to contain such goods; or	161	such package, with its contents, shall be liable to confiscation.
if any package is found to contain dutiable goods not entered, or not entered as such, in such book,	161	such goods shall be liable to confiscation.
68.—If the Master of any coasting vessel which is square-rigged or propelled by steam fails correctly to keep, or to cause to be kept, a cargo-book, or to produce the same on demand; or	161	such Master shall be liable to a penalty not exceeding five hundred rupees.
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,		
69.—If the Master of any coasting vessel which is not square-rigged or propelled by steam violates any rule made under section 162,	162	such Master shall be liable to a penalty not exceeding one hundred rupees.
70.—If, contrary to the provisions of this or any other law for the time being in force relating to the Customs, any goods are laden on board of any vessel in any Customs-port and carried coastwise; or	Chapter XIII.	such goods shall be liable to confiscation, and the Master of such vessel shall be liable to a penalty not exceeding five hundred rupees.
if any goods which have been brought coastwise are unladen in any such Port; or		
if any goods are found on board of any coasting vessel without being entered in the clearance thereof,		
71.—If the Master of any coasting vessel refuses to bring any document to the Customs-collector when so required under section 163,	163	such Master shall be liable to a penalty not exceeding two hundred rupees.
72.—If any person makes or signs, or uses, any declaration or document used in the transaction of any business relating to the Customs, knowing such declaration or document to be false in any particular; or	General	shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand rupees.
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; or		
being required under this or any other Act relating to the Customs to produce any document, refuses or neglects to produce such document; or		
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,		
73.—If any person on board of any vessel or boat in any Customs-port, 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,	General	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.
74.—If any officer of Customs requires any person to be searched for dutiable or prohibited goods, or to be detained, without having reasonable ground to believe that he has such goods about his person, or has been guilty of an offence relating to the Customs,	166	such officer shall be liable to a penalty not exceeding one hundred rupees.
75.—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,	General	such officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both.
76.—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,	General	such officer or person shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding two years, or to fine, or to both.
77.—If any Police-officer, whose duty it is, under section 177, to send a written notice or cause goods to be conveyed to a Custom-house, neglects so to do,	177	such Police-officer shall be liable to a penalty not exceeding one hundred rupees.
78.—If any person 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,	General	such 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.

The numbers in the third column of the above schedule are intended merely as general references to the parts of this Act to which the offences have general relation, but are not part of the definitions of those offences.

165. 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.

CHAPTER XV.

PROCEDURE RELATING TO OFFENCES, APPEALS, &c.

166. Any officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel or boat in any Port in British India, or any person who has landed from any vessel or boat:

Persons may be searched on reasonable suspicion.

Provided that such officer has reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person.

167. When any officer of Customs is about to search any person under the provisions of section 166, such person may require the said officer to take him, previous to search, before the nearest Magistrate or Customs-collector.

Persons may, before search, require to be taken before 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 Customs-collector.

The Magistrate or Customs-collector 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.

168. Any duly empowered officer of Customs or other person duly employed for the prevention of smuggling, may stop and search any vessel, 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 vessels, carts, &c., and search for goods on reasonable suspicion.

169. Any Magistrate may, on application by a Customs-collector, 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 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.

170. Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act, 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.

Persons reasonably suspected may be detained.

171. Every person detained on the ground that he has been guilty of an offence under this Act, shall forthwith be taken before a Magistrate or Customs-collector.

Persons detained to be taken to nearest Magistrate or Customs-collector.

172. When any person detained on the ground that he has been guilty of an offence under this Act, 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 Magistrate 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.

173. If any person liable to be detained under this Act, is not detained at the time of committing the offence for which he is 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.

Person escaping may be afterwards detained.

174. When any person employed on the crew of any of Her Majesty's ships is detained under this Act, 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.

175. Any vessel or goods liable to confiscation may be seized 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.

176. 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 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 place appointed by the Chief Customs-Authority for the deposit of goods so seized.

177. When any goods liable to confiscation under this Act 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.

178. When any vessel or goods is or are seized, or any person is detained, under this Act, 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.

179. 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;

Adjudication of 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,

a Customs-collector, or if there be no such officer at the place where the confiscation or penalty or increased rates is or are incurred, such other officer as the Local Government from time to time appoints in this behalf; may, unless it be otherwise provided in this Act, adjudge such confiscation, penalty or increased rates of duty.

180. In cases cognizable under section 179 by the Customs-collector, the Local Government may empower any officer of Customs by name, or as holding an office, 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 Commissioner or Deputy Collector, to goods of a greater value than one thousand rupees, nor, as regards an Assistant Commissioner or Assistant Collector or other subordinate officer, to goods of a greater value than two hundred rupees; and that the power to adjudge a penalty shall not extend, as regards a Deputy Commissioner or Deputy Collector, to a sum exceeding five hundred rupees, nor, as regards an Assistant Commissioner or Assistant Collector or other subordinate officer, to a sum exceeding one hundred rupees.

Proviso.

181. Whenever confiscation is authorized by this Act, the officer adjudging it shall 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.

182. When the confiscation of any vessel, cart or other means of conveyance, horse or other animal, or any goods, is adjudged under section 179 or section 180, 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.

183. If any vessel actually departs without a port-clearance, or after failing to bring-to when required at any station appointed under section 16, the penalty to which the Master of such vessel is liable may be adjudged by the Chief Officer of Customs of any Customs-port in British India to which such vessel proceeds, or in which she is, or in the 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 16.

A certificate of such departure or 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.

184. The award of any confiscation, penalty or increased rates of duty under this Act by an officer of Customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.

Penalty under Act not to interfere with punishment under other law.

185. All offences against this Act, other than those cognizable under section 179 by a Customs-collector, may be tried summarily by a Magistrate.

Offences not specially provided for how adjudicated.

186. 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 fit, 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 or have been adjudged against him in the original award.

187. 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.

188. When any penalty is incurred under this Act, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

If any person passing goods through the Custom-house has become liable to any fine or penalty, the Customs-collector may detain such goods until the fine or penalty is discharged.

Goods on which penalty incurred not to be removed till payment.

Goods of person liable to fine or penalty may be detained.

189. 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 such goods, 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.

Enforcement of payment of penalty.

190. 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 does 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 does 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 does not exceed five hundred rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.

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.

191. 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.

192. 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 of proportional part of fine.

CHAPTER XVI.

MISCELLANEOUS.

193. All rules made under this Act shall be notified in the official Gazette, and shall thereupon have the force of law.

Rules to be notified.

194. Any notification in the *Gazette of India* or in the official Gazette made by any authority under powers conferred by this Act, may be cancelled in like manner by the same authority.

Notifications made may be cancelled.

195. If in any case relating to the removal of goods without payment of duty, the person offending be an officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the owner of such goods, no duty shall be payable in respect of such goods. For any damage so occasioned by such officer, the Customs-collector shall, with the sanction of the Chief Customs-Authority, make due compensation to such owner.

Remission of duty and compensation to owner in certain cases.

196. 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.

197. Nothing in this Act shall affect Bengal Acts V of 1870, VII of 1871 and III of 1872, or Bombay Act I of 1873, or any other law for the time being in force relating to the Commissioners for making improvements in the Port of Calcutta or the Trustees of the Port of Bombay respectively.

Saving of Calcutta Port Commissioners' and Bombay Port Trust Acts.

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.
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.
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.

PART II.

FORMS.

A.

FORM OF BOND FOR IMPORT DUTY.

(*See sections* 106 *and* 107).

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 (*or* in the District Court, *as the case may be*)

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 goods, 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*) ( )

B.

FORM OF BONDED WAREHOUSE WARRANT.

(*See section* 112).

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.

C.

FORM OF BOND FOR THE REMOVAL OF SPIRITS FROM LICENSED DISTILLERY.

(*See sections* 143 *and* 150).

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 (*or* in the District Court, *as the case may be*)

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

D.

FORM OF COASTING PASS—(*see section* 156).

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

Cleared the day of 18

(*Signed*) (*Officer in charge of Custom-house.*)

Here state the particulars according to the above headings.

(*Signed*) (*Name of Master.*)

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 22, 1877. { 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 19th December 1877, and was referred to a Select Committee:—

No. 21 OF 1877.

A Bill to amend the Opium Act, 1876.

Preamble. FOR the purpose of amending the Opium Act, 1876; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Opium Act, 1877."

Section substituted for Act XXIII of 1876, s. 1. 2. For the first section of the Opium Act, 1876, the following shall be substituted:—

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

"It shall extend to such local areas as the Governor General in Council may, by notification in the *Gazette of India*, from time to time direct;

"and it shall come into force in each of such areas on such day as the Governor General in Council in like manner directs in this behalf."

Amendment of same Act, s. 4, cl. (*d*). 3. In clause (*d*) of section four of the same Act, the words "free, or" shall be inserted after the word "India."

Amendment of same Act, s. 5, cl. (*d*). 4. In clause (*d*) of section five of the same Act, the words "free, or" shall be inserted after the word "India."

Addition to same Act, s. 8, cl. (*f*); 5. To clause (*f*) of section eight of the same Act, the following shall be added (namely):—

"and the farm of duties leviable on the sale of opium by retail;" and

and to s. 10, cl. (*g*). to clause (*g*) of section ten of the same Act, the following shall be added (namely):—"and the farm of duties."

Amendment of same Act, s. 22. 6. In the penultimate line of section twenty-two of the same Act, for the word "Act" shall be substituted the word "section."

Amendment of same Act, s. 23. 7. To the second paragraph of section twenty-three of the same Act, the words "or his licensee" shall be added.

Repeal of Act VI of 1877. 8. Act No. VI of 1877 (*for postponing the day on which the Opium Act, 1876, is to come into force*) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The present Bill has the following objects: first, to enable the Governor General in Council to bring the Opium Act, 1876, into force in such local areas and at such respective dates as he thinks fit; secondly, to remove doubts as to whether sections 4 and 5 of that Act admitted of the free export and import of opium, when thought desirable; thirdly, to permit and regulate, by rules framed under that Act, section 8, the farm of opium-duties and to facilitate the recovery of their dues by farmers; lastly, to correct a clerical error in section 22 of the same Act.

T. C. HOPE.

CALCUTTA; *The 12th December 1877.*

D. FITZPATRICK,
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 19th December 1877, and was referred to a Select Committee :—

No. 22 OF 1877.

THE INDIAN ARMS BILL, 1878.

CONTENTS.

PREAMBLE.

I.—Preliminary.

SECTIONS.

1. Short title.
   Local extent.
   Savings.
2. Commencement.
3. Repeal of enactments.
4. Interpretation-clause.

II.—Manufacture, Repair and Sale.

5. Unlicensed manufacture, repair and sale prohibited.

III.—Import, Export and Transport.

6. Unlicensed importation and exportation prohibited.
   Importation and exportation of arms and ammunition for private use.
7. Levy of import-duties.
8. Power to prohibit transport.
   Transhipment of arms.
9. Arrest of persons conveying arms, &c., under suspicious circumstances.
   Procedure where arrest made by person not a Magistrate or a Police-officer.

IV.—Going armed and possessing Arms, &c.

10. Prohibition of going armed without license.
11. Unlicensed possession of arms, &c.

V.—Licenses.

12. Power to make rules as to licenses.
13. Cancelling and suspension of license.
14. Arms for which license cancelled to be deposited at Police-station.

VI.—Penalties.

15. For breach of sections 5, 6, 8, 10, 11 and 14.
16. For secret breaches of sections 5, 6, 8 and 11.
    For concealing arms, &c.
17. For breach of license.
18. For knowingly purchasing arms, &c., from unlicensed person.
    For selling arms, &c., to person not authorized to possess them.
19. Power to confiscate.
20. Power to provide penalty for breach of rule.

VII.—Miscellaneous.

21. Search and seizure by Magistrate.
22 Seizure and detention by Local Government.
23. Power to exempt.
24. Power to delegate.
25. Sanction required to certain prosecutions under section 25, clause (*f*).

SECTIONS.

26. Searches in the case of offences against section 15, clause (*f*), how conducted.
27. Notice and limitation of suits.

THE FIRST SCHEDULE.
THE SECOND SCHEDULE.

A Bill to consolidate and amend the law relating to Arms, Ammunition and Military Stores.

WHEREAS it is expedient to consolidate and amend the law relating to arms, ammunition and military stores; It is hereby enacted as follows :— Preamble.

I.—Preliminary.

1. This Act may be called "The Indian Arms Act, 187 "; and it extends to the whole of British India. Short title. Local extent.

But nothing herein contained shall apply to— Savings.

(*a*) arms, ammunition or military stores on board any vessel and forming part of the ordinary armament or equipment of such vessel, or

(*b*) the manufacture, repair, sale, import, export, transport, bearing or possession of arms, ammunition or military stores by order of the Government, or by a public servant or a volunteer enrolled under the Indian Volunteers Act, 1869, in the course of his duty as such public servant or volunteer.

2. This Act shall come into force on such day as the Governor General in Council by notification in the *Gazette of India* appoints. Commencement.

3. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. But all authorities and permissions given, licenses and exemptions granted, orders and appointments made, notifications published, and rules, conditions and forms prescribed under any enactment hereby repealed shall be deemed to be respectively given, granted, made, published and prescribed under this Act. Repeal of enactments.

4. In this Act and the second schedule hereto annexed, unless there be something repugnant in the subject or context— Interpretation-clause.

"Cannon" includes also howitzer, mortar, mitrailleuse and other ordnance :

"Arms" includes also cannon and parts of arms, and machinery for manufacturing the same :

"Ammunition" includes also rockets, guncotton, fulminating material, gunflints, gunwads, percussion caps, fuses, and parts of projectiles and cartridges, and machinery for manufacturing the same, but does not include lead, sulphur or saltpetre :

"License" means a license granted under this Act, and "licensed" means holding such license :

"Military stores" in any section of this Act means any military stores to which the Governor General in Council may from time to time extend such section, and includes also all lead, sulphur, saltpetre and other material to which the Governor General in Council may from time to time extend such section.

II.—Manufacture, Repair and Sale.

5. No person shall manufacture, repair or sell, or keep, offer or expose for sale, any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license. Unlicensed manufacture, repair and sale prohibited.

Nothing herein contained shall prevent any person from repairing any arms which he lawfully possesses for his own private use, or from selling any arms or ammunition which he so possesses to any person who is not by any enactment for the time being in force prohibited from possessing the same; but every person so selling arms or ammunition shall, without unnecessary delay, give to the officer in charge of the nearest police-station notice of the sale and of the purchaser's name and address.

III.—Import, Export and Transport.

6. No person shall import or export by sea or by land into or out of British India any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license. Unlicensed importation and exportation prohibited.

Nothing in the first clause of this section extends to arms or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the Local Government in this behalf may at any time detain such arms or ammunition, until he receives the orders of the Local Government thereon. Importation and exportation of arms and ammunition for private use.

Explanation.—Arms, ammunition or military stores taken from one part of British India to another by sea or across intervening territory not being part of British India are exported and imported within the meaning of this section.

7. In lieu of the duties imposed by the Indian Tariff Act, 1875, upon the articles imported by sea and mentioned in the second schedule hereto annexed, there shall be levied and collected, in every part of British India, upon the same articles the duties specified in the same schedule. Levy of import-duties.

8. The Governor General in Council may from time to time by notification in the *Gazette of India*— Power to prohibit transport.

(*a*) prohibit the transport of any description of arms, ammunition or military stores over British India or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(*b*) cancel any such notification.

Explanation.—Arms, ammunition or military stores transhipped at a port in British India are transported within the meaning of this section. Transhipment of arms.

9. Any person found carrying or conveying any arms, ammunition or military stores, whether covered by a license or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose dangerous to the public peace, may be apprehended without warrant by any other person and detained in custody in order that he may be dealt with according to law. Arrest of persons conveying arms, &c., under suspicious circumstances.

Any person so apprehended by a person not being a Magistrate or Police-officer shall be delivered over as soon as possible to a Police-officer. Procedure where arrest made by person not a Magistrate or a Police-officer.

All persons apprehended by, or delivered to, a Police-officer under the provisions of this section shall be taken without unnecessary delay before a Magistrate.

IV.—Going armed and possessing Arms, &c.

10. No person shall go armed with any arms except under a license and to the extent and in the manner permitted by such license. Prohibition of going armed without license.

Any person so going armed without a license or in contravention of its provisions may be disarmed by any Magistrate or Police-officer.

11. No person shall have in his possession or under his control any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license. Unlicensed possession of arms, &c.

Nothing in this section shall apply during the three months next following the date on which this Act comes into force to the possession by any person of any arms not being cannon or of any ammunition or military stores in any place to which section 32, clause 2 of Act XXXI of 1860 does not apply at such date.

Any person having any such arms, ammunition or military stores in his possession in any such place within the said period of three months may, and any person having any such arms, ammunition or military stores in his possession in any such place at the expiry of the same period, shall, deposit the same with the officer in charge of the nearest police-station.

V.—Licenses.

12. The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which, any license shall be granted; and may by such rules among other matters— Power to make rules as to licenses.

(*a*) fix a fee payable by stamp or otherwise in respect of such license;

(*b*) fix the period for which such license shall continue in force;

(*c*) direct that the holder of such license shall give notice to an officer of Government of anything done thereunder, or keep a record or account of anything so done and exhibit such record or account when called upon by an officer of Government to do so;

(*d*) empower any officer of Government to enter and inspect the business premises of any person holding a license of the description referred to in section 5 or 6;

(*e*) direct that any such person shall exhibit the entire stock of arms, ammunition and military stores in his possession or under his control to any such officer of Government, and

(*f*) require the person holding any license or acting under any license to produce the same when called upon by an officer of Government to do so.

Cancelling and suspension of license.

13. Any license granted under this Act may be cancelled or suspended—

(*a*) by the officer by whom the same was granted, or by any authority to which he may be subordinate, when, for reasons to be recorded in writing, such officer or authority deems it necessary for the security of the public peace to cancel or suspend such license;

(*b*) by any Judge or Magistrate before whom the holder of such license is convicted of an offence against this Act, or against the rules made under this Act; or

(*c*) by the Local Government at its discretion by a notification in the official Gazette cancelling or suspending all licenses of that description throughout the whole or any portion of the territories under its administration.

Arms for which license cancelled to be deposited at police-station.

14. Any person possessing arms, ammunition or military stores, the possession whereof by him has, in consequence of the cancellation of a license under section thirteen become unlawful, shall deposit the same without unnecessary delay with the officer in charge of the nearest police-station.

VI.—Penalties.

For breach of sections 5, 6, 8, 10, 11 and 14.

15. Whoever commits any of the following offences (namely)—

(*a*) manufactures, repairs or sells, or keeps, offers or exposes for sale any arms, ammunition or military stores in contravention of the provisions of section five;

(*b*) fails to give notice as required by the same section;

(*c*) imports or exports any arms, ammunition or military stores in contravention of the provisions of section six;

(*d*) transports any arms, ammunition or military stores in contravention of a prohibition issued under section eight;

(*e*) goes armed in contravention of the provisions of section ten;

(*f*) has in his possession or under his control any arms, ammunition or military stores in contravention of the provisions of section eleven;

(*g*) fails to deposit arms, ammunition or military stores, as required by section eleven or section fourteen;

shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

For secret breaches of sections 5, 6, 8 and 11.

16. Whoever does any act mentioned in clause (*a*), (*c*), (*d*) or (*f*) of section fifteen, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Indian Penal Code, or any officer or servant of a Railway Company or any public carrier,

and whoever, on any search being made under section twenty-one, conceals or attempts to conceal any arms, ammunition or military stores,

For concealing arms, &c.

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

For breach of license.

17. Whoever, in violation of a condition subject to which a license has been granted, does or omits to do any act shall, when the doing or omitting to do such act is not punishable under section fifteen or section sixteen, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For knowingly purchasing arms, &c., from unlicensed person.

18. Whoever knowingly purchases any arms, ammunition or military stores from any person not licensed to sell the same; or sells any arms, ammunition or military stores to any person without previously ascertaining that such person is legally authorized to possess the same,

For selling arms, &c., to person not authorised to possess them.

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power to confiscate.

19. When any person is convicted of an offence punishable under this Act committed by him in respect of any arms, ammunition and military stores, it shall be in the discretion of the Court or Magistrate passing sentence on such person further to declare the whole or any portion of such arms, ammunition or military stores to be confiscated.

Power to provide penalty for breach of rule.

20. The Governor General in Council or the Local Government may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that may ensue from such breach, a punishment, on conviction before a Magistrate, of imprisonment for a term not exceeding one month, or of fine not exceeding two hundred rupees, or of both.

VII.—Miscellaneous.

Search and seizure by Magistrate.

21. Whenever a Magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition or military stores for any unlawful purpose,

or that such person cannot be left in the possession of any such arms, ammunition or military stores without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person, or in which such Magistrate has reason to believe such arms, ammunition or military stores are or is to be found, and may seize and detain the same, whether covered by a license or not, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, the Magistrate, or by or in the presence of some European officer, civil or military, to be especially empowered by the Local Government.

Seizure and detention by Local Government.

22. The Local Government may at any time seize any arms, ammunition or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

Power to exempt.

23. The Governor General in Council may from time to time by notification published in the *Gazette of India*—

(*a*) exempt any person by name or office or any class of persons, or withdraw any part of British India, from the operation of any prohibition contained in this Act;

(*b*) cancel any such notification and subject the person or part comprised therein again to the operation of such prohibition.

Power to delegate.

24. The Governor General in Council may from time to time delegate to any Local Government, absolutely or subject to conditions, all or any of the powers conferred by sections eight, twelve and twenty-three to be exercised by such Government within the territories under its administration by notification in its official Gazette.

Sanction required to certain prosecutions under section 25, cl (*f*).

25. Where an offence punishable under section 15, clause (*f*), has been committed within three months from the date on which this Act comes into force in any province, district or place to which section 32, clause 2 of Act XXXI of 1860 applies at such date, or where such an offence has been committed in any part of British India not being such a district, province or place, no proceedings shall be instituted against any person in respect of such offence without the previous sanction of the Magistrate of the district

Searches in the case of offences against section 15, cl. (*f*), how conducted.

26. Where a search is to be made under the Code of Criminal Procedure in the course of any proceedings instituted in respect of an offence punishable under section 15, clause (*f*), such search shall, notwithstanding anything contained in the said Code, be made in the presence of some officer specially appointed by name or office by the Local Government in this behalf, and not otherwise.

Notice and limitation of suits.

27. No suit or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act, without giving him not less than one month's previous notice in writing of the intended proceeding and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

THE FIRST SCHEDULE.

Number and year.	Title.	Extent of repeal.
XVIII of 1841	An Act for consolidating and amending the enactments concerning the exportation of Military Stores.	So much as has not been repealed.
XXX of 1851	An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban and Tenasserim Provinces.	In the preamble the words "and that the exportation of munitions of war from any of these Provinces into foreign States should be prohibited." Section 11.
XXXI of 1860	An Act relating to the manufacture, importation and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.	So much as has not been repealed.
VI of 1866	An Act to continue Act No. XXXI of 1860 (relating to the manufacture, importation and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases), and for other purposes.	The whole.
III of 1872	The Santhál Parganas Settlement Regulation.	So much of the schedule as relates to Act XXXI of 1860 and Act VI of 1866.
IX of 1874	The Arakan Hills District Laws Regulation, 1874.	So much of the schedule as relates to Act XVIII of 1841.
XV of 1874	An Act for declaring the local extent of certain Enactments, and for other purposes.	So much of the first schedule as relates to Act XVIII of 1841.

THE SECOND SCHEDULE.

Duties on arms and military stores imported by sea.

	Rs.	As.
Fire-arms other than pistols, for each ...	50	
Barrels for the same, whether single or double, for each	30	
Pistols for each	15	
Barrels for the same, whether single or double, for each	10	
Springs used for fire-arms, for each ...	8	
Gun-stocks, sights, blocks and rollers, for each	5	

THE SECOND SCHEDULE—*continued.*

	Rs.	As.
Revolver-breeches, for each cartridge which they will carry ...	2	8
Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates, and all other parts of a fire-arm not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each ...	1	8
Machines for making or loading or closing cartridges, for each ...	10	
Machines for capping cartridges, for each	2	8
Airguns, for each	50	
Apparatus for charging airguns, for each	20	
Bullet-moulds, for each	0	4
Punches for making gunwads, for each	0	4

STATEMENT OF OBJECTS AND REASONS.

THE law relating to arms, ammunition and military stores has long been felt to be in an unsatisfactory state. In some particulars it has been found defective, and on many points it presents difficulties of construction which might at any time prove embarrassing to the Government or entail hardship on innocent persons.

2. So far back as the year 1870 a Bill was introduced to remedy this state of things; but, owing in part to press of work and in part to other causes, it was allowed to stand over.

3. The present Bill is in the main a consolidation of the existing law, and a re-enactment of it in a simpler form with such improvements in points of detail as the experience of the working of the Arms Act of 1860 has shown to be desirable. On two points only does it propose to introduce changes of any importance.

4. The first of these points is dealt with in section 7, which, taken with the second schedule, imposes duties on the importation by sea of arms and parts of arms, &c. Those duties, it will be observed, are fixed without reference to the value of the articles on which they are imposed, and they are so fixed and are pitched, at what may seem at first sight to be high rates, expressly with a view to check the importation of a cheap class of arms, the importation of which has of late years largely increased.

5. Such arms cannot, from their inferior make, be intended for sporting purposes, and there is reason to suspect that a considerable proportion of them finds its way into the hands of the criminal classes in the interior of the country or of the hostile tribes on our frontiers. It has been found very difficult to prevent the transit of such arms from the seaports into the interior of the country and towards the frontiers when once they are imported, and it is believed that the simplest method of checking their importation, and the method least calculated to interfere with the legitimate trade in arms of a superior class, is to impose an uniform duty of the nature proposed.

6. The other point on which the Bill goes to introduce a material change in the existing law is that of the possession of arms. At present the mere possession of arms is prohibited only in certain provinces, which, to use the language of Act XXXI of 1860, have been "disarmed." Throughout the rest of the country, though no person can go armed or carry arms except under a special exemption or by virtue of a license, the mere possession of arms other than cannon is not restricted.

7. Now there is good reason to believe that this complete absence of restriction in the districts which have not been disarmed has led to the law prohibiting the transport of arms and the export of arms across the frontiers being extensively evaded. As long as all persons indiscriminately may have arms in their possession to any amount they please in the districts which have not been disarmed, it is practically impossible to prevent such arms being passed on to the disarmed districts, to the predatory classes in Native States, and to the hostile tribes on our frontiers.

The only remedy seems to be to place the possession of arms throughout the whole of British India under control, and this it is proposed to do by section 11 of the Bill, which requires all such possession to be under a license.

8. It will, however, be observed that ample safeguards are provided to prevent this prohibition pressing unfairly against respectable persons desiring to possess arms for legitimate purposes. Section 11 allows a period of three months after the Bill becomes law within which the possession of arms in the districts not hitherto disarmed will not be illegal, and during which any person in such districts can apply for a license; section 25 enacts that in these districts no person shall be prosecuted for possessing arms without the previous sanction of the Magistrate of the District; section 26 imposes special and very stringent conditions on searches for arms; and lastly, under section 23, the Government may exempt any class of persons from the operation of the prohibition altogether.

9. On the whole it may be safely affirmed that, with a system of licenses granted either without charge or on the payment of small fees, and in cases where it is safe so to grant them for reasonably long periods, the Bill will not, as regards the possession of arms, materially affect the position of any persons to whom the right to possess arms can, with a due regard to the public peace and safety, be conceded.

10. It need only be added that section 3 of the Bill maintains in force all exemptions granted under the present law.

E. C. BAYLEY.

CALCUTTA;
The 12th December 1877.

D. FITZPATRICK,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 29, 1877. {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 19th December 1877, and was referred to a Select Committee:—

No. 21 OF 1877.

A Bill to amend the Opium Act, 1876.

FOR the purpose of amending the Opium Act, 1876; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Opium Act, 1877." Short title.

2. For the first section of the Opium Act, 1876, the following shall be substituted:— Section substituted for Act XXIII of 1876, s. 1.

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

"It shall extend to such local areas as the Governor General in Council may, by notification in the *Gazette of India*, from time to time direct;

"and it shall come into force in each of such areas on such day as the Governor General in Council in like manner directs in this behalf."

3. In clause (*d*) of section four of the same Act, the words "free, or" shall be inserted after the word "India." Amendment of same Act, s. 4, cl. (*d*).

4. In clause (*d*) of section five of the same Act, the words "free, or" shall be inserted after the word "India." Amendment of same Act, s. 5, cl. (*d*).

5. To clause (*f*) of section eight of the same Act, the following shall be added (namely):— Addition to same Act, s. 8, cl. (*f*);

"and the farm of duties leviable on the sale of opium by retail;" and

to clause (*g*) of section ten of the same Act, the following shall be added (namely):—"and the farm of duties." and to s. 10, cl. (*g*).

6. In the penultimate line of section twenty-two of the same Act, for the word "Act" shall be substituted the word "section." Amendment of same Act, s. 22.

7. To the second paragraph of section twenty-three of the same Act, the words "or his licensee" shall be added. Amendment of same Act, s. 23.

8. Act No. VI of 1877 (*for postponing the day on which the Opium Act, 1876, is to come into force*) is hereby repealed. Repeal of Act VI of 1877.

STATEMENT OF OBJECTS AND REASONS.

The present Bill has the following objects: first, to enable the Governor General in Council to bring the Opium Act, 1876, into force in such local areas and at such respective dates as he thinks fit; secondly, to remove doubts as to whether sections 4 and 5 of that Act admitted of the free export and import of opium, when thought desirable; thirdly, to permit and regulate, by rules framed under that Act, section 8, the farm of opium-duties and to facilitate the recovery of their dues by farmers; lastly, to correct a clerical error in section 22 of the same Act.

T. C. HOPE.

CALCUTTA;
The 12th December 1877.

D. FITZPATRICK,
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 19th December 1877, and was referred to a Select Committee :—

No. 22 OF 1877.

THE INDIAN ARMS BILL, 1877.

CONTENTS.

PREAMBLE.

I.—Preliminary.

SECTIONS.

1. Short title.
   Local extent.
   Savings.
2. Commencement.
3. Repeal of enactments.
4. Interpretation-clause.

II.—Manufacture, Repair and Sale.

5. Unlicensed manufacture, repair and sale prohibited.

III.—Import, Export and Transport.

6. Unlicensed importation and exportation prohibited.
   Importation and exportation of arms and ammunition for private use.
7. Levy of import-duties.
8. Power to prohibit transport.
   Transhipment of arms.
9. Arrest of persons conveying arms, &c., under suspicious circumstances.
   Procedure where arrest made by person not a Magistrate or a Police-officer.

IV.—Going armed and possessing Arms, &c.

10. Prohibition of going armed without license.
11. Unlicensed possession of arms, &c.

V.—Licenses.

12. Power to make rules as to licenses.
13. Cancelling and suspension of license.
14. Arms for which license cancelled to be deposited at Police-station.

VI.—Penalties.

15. For breach of sections 5, 6, 8, 10, 11 and 14.
16. For secret breaches of sections 5, 6, 8 and 11.
    For concealing arms, &c.
17. For breach of license.
18. For knowingly purchasing arms, &c., from unlicensed person.
    For selling arms, &c., to person not authorized to possess them.
19. Power to confiscate.
20. Power to provide penalty for breach of rule.

VII.—Miscellaneous.

21. Search and seizure by Magistrate.
22. Seizure and detention by Local Government.
23. Power to exempt.
24. Power to delegate.
25. Sanction required to certain prosecutions under section 25, clause (*f*).

SECTIONS.

26. Searches in the case of offences against section 15, clause (*f*), how conducted.
27. Notice and limitation of suits.

THE FIRST SCHEDULE.
THE SECOND SCHEDULE.

A Bill to consolidate and amend the law relating to Arms, Ammunition and Military Stores.

WHEREAS it is expedient to consolidate and amend the law relating to arms, ammunition and military stores; It is hereby enacted as follows :—

Preamble.

I.—Preliminary.

1. This Act may be called "The Indian Arms Act, 187 "; and it extends to the whole of British India.

Short title.

Local extent.

But nothing herein contained shall apply to—

Savings.

(*a*) arms, ammunition or military stores on board any vessel and forming part of the ordinary armament or equipment of such vessel, or

(*b*) the manufacture, repair, sale, import, export, transport, bearing or possession of arms, ammunition or military stores by order of the Government, or by a public servant or a volunteer enrolled under the Indian Volunteers Act, 1869, in the course of his duty as such public servant or volunteer.

2. This Act shall come into force on such day as the Governor General in Council by notification in the *Gazette of India* appoints.

Commencement.

3. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. But all authorities and permissions given, licenses and exemptions granted, orders and appointments made, notifications published, and rules, conditions and forms prescribed under any enactment hereby repealed shall be deemed to be respectively given, granted, made, published and prescribed under this Act.

Repeal of enactments.

4. In this Act and the second schedule hereto annexed, unless there be something repugnant in the subject or context—

Interpretation-clause.

"Cannon" includes also howitzer, mortar, mitrailleuse and other ordnance :

"Arms" includes also cannon and parts of arms, and machinery for manufacturing the same :

"Ammunition" includes also rockets, guncotton, fulminating material, gunflints, gunwads, percussion caps, fuses, and parts of projectiles and cartridges, and machinery for manufacturing the same, but does not include lead, sulphur or saltpetre :

"License" means a license granted under this Act, and "licensed" means holding such license :

"Military stores" in any section of this Act means any military stores to which the Governor General in Council may from time to time extend such section, and includes also all lead, sulphur, saltpetre and other material to which the Governor General in Council may from time to time extend such section.

II.—Manufacture, Repair and Sale.

5. No person shall manufacture, repair or sell, or keep, offer or expose for sale, any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license.

Unlicensed manufacture, repair and sale prohibited.

Nothing herein contained shall prevent any person from repairing any arms which he lawfully possesses for his own private use, or from selling any arms or ammunition which he so possesses to any person who is not by any enactment for the time being in force prohibited from possessing the same; but every person so selling arms or ammunition shall, without unnecessary delay, give to the officer in charge of the nearest police-station notice of the sale and of the purchaser's name and address.

III.—Import, Export and Transport.

6. No person shall import or export by sea or by land into or out of British India any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license.

Unlicensed importation and exportation prohibited.

Nothing in the first clause of this section extends to arms or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the Local Government in this behalf may at any time detain such arms or ammunition, until he receives the orders of the Local Government thereon.

Importation and exportation of arms and ammunition for private use.

Explanation.—Arms, ammunition or military stores taken from one part of British India to another by sea or across intervening territory not being part of British India are exported and imported within the meaning of this section.

7. In lieu of the duties imposed by the Indian Tariff Act, 1875, upon the articles imported by sea and mentioned in the second schedule hereto annexed, there shall be levied and collected, in every part of British India, upon the same articles the duties specified in the same schedule.

Levy of import-duties.

8. The Governor General in Council may from time to time by notification in the *Gazette of India*—

Power to prohibit transport.

(*a*) prohibit the transport of any description of arms, ammunition or military stores over British India or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(*b*) cancel any such notification.

Explanation.—Arms, ammunition or military stores transhipped at a port in British India are transported within the meaning of this section.

Transhipment of arms.

9. Any person found carrying or conveying any arms, ammunition or military stores, whether covered by a license or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose dangerous to the public peace, may be apprehended without warrant by any other person and detained in custody in order that he may be dealt with according to law.

Arrest of persons conveying arms, &c., under suspicious circumstances.

Any person so apprehended by a person not being a Magistrate or Police-officer shall be delivered over as soon as possible to a Police-officer.

Procedure where arrest made by person not a Magistrate or a Police-officer.

All persons apprehended by, or delivered to, a Police-officer under the provisions of this section shall be taken without unnecessary delay before a Magistrate.

IV.—Going armed and possessing Arms, &c.

10. No person shall go armed with any arms except under a license and to the extent and in the manner permitted by such license.

Prohibition of going armed without license.

Any person so going armed without a license or in contravention of its provisions may be disarmed by any Magistrate or Police-officer.

11. No person shall have in his possession or under his control any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license.

Unlicensed possession of arms, &c.

Nothing in this section shall apply during the three months next following the date on which this Act comes into force to the possession by any person of any arms not being cannon or of any ammunition or military stores in any place to which section 32, clause 2 of Act XXXI of 1860 does not apply at such date.

Any person having any such arms, ammunition or military stores in his possession in any such place within the said period of three months may, and any person having any such arms, ammunition or military stores in his possession in any such place at the expiry of the same period, shall, deposit the same with the officer in charge of the nearest police-station.

V.—Licenses.

12. The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which, any license shall be granted; and may by such rules among other matters—

Power to make rules as to licenses.

(*a*) fix a fee payable by stamp or otherwise in respect of such license;

(*b*) fix the period for which such license shall continue in force;

(*c*) direct that the holder of such license shall give notice to an officer of Government of anything done thereunder, or keep a record or account of anything so done and exhibit such record or account when called upon by an officer of Government to do so;

(*d*) empower any officer of Government to enter and inspect the business premises of any person holding a license of the description referred to in section 5 or 6;

(*e*) direct that any such person shall exhibit the entire stock of arms, ammunition and military stores in his possession or under his control to any such officer of Government, and

(*f*) require the person holding any license or acting under any license to produce the same when called upon by an officer of Government to do so.

Cancelling and suspension of license.

13. Any license granted under this Act may be cancelled or suspended—

(*a*) by the officer by whom the same was granted, or by any authority to which he may be subordinate, when, for reasons to be recorded in writing, such officer or authority deems it necessary for the security of the public peace to cancel or suspend such license;

(*b*) by any Judge or Magistrate before whom the holder of such license is convicted of an offence against this Act, or against the rules made under this Act; or

(*c*) by the Local Government at its discretion by a notification in the official Gazette cancelling or suspending all licenses of that description throughout the whole or any portion of the territories under its administration.

Arms for which license cancelled to be deposited at police-station.

14. Any person possessing arms, ammunition or military stores, the possession whereof by him has, in consequence of the cancellation of a license under section thirteen become unlawful, shall deposit the same without unnecessary delay with the officer in charge of the nearest police-station.

VI.—Penalties.

For breach of sections 5, 6, 8, 10, 11 and 14.

15. Whoever commits any of the following offences (namely)—

(*a*) manufactures, repairs or sells, or keeps, offers or exposes for sale any arms, ammunition or military stores in contravention of the provisions of section five;

(*b*) fails to give notice as required by the same section;

(*c*) imports or exports any arms, ammunition or military stores in contravention of the provisions of section six;

(*d*) transports any arms, ammunition or military stores in contravention of a prohibition issued under section eight;

(*e*) goes armed in contravention of the provisions of section ten;

(*f*) has in his possession or under his control any arms, ammunition or military stores in contravention of the provisions of section eleven;

(*g*) fails to deposit arms, ammunition or military stores, as required by section eleven or section fourteen;

shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

For secret breaches of sections 5, 6, 8 and 11.

16. Whoever does any act mentioned in clause (*a*), (*c*), (*d*) or (*f*) of section fifteen, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Indian Penal Code, or any officer or servant of a Railway Company or any public carrier,

For concealing arms, &c.

and whoever, on any search being made under section twenty-one, conceals or attempts to conceal any arms, ammunition or military stores,

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

For breach of license.

17. Whoever, in violation of a condition subject to which a license has been granted, does or omits to do any act shall, when the doing or omitting to do such act is not punishable under section fifteen or section sixteen, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For knowingly purchasing arms, &c., from unlicensed person.

18. Whoever knowingly purchases any arms, ammunition or military stores from any person not licensed to sell the same; or

For selling arms, &c., to person not authorized to possess them.

sells any arms, ammunition or military stores to any person without previously ascertaining that such person is legally authorized to possess the same,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power to confiscate.

19. When any person is convicted of an offence punishable under this Act committed by him in respect of any arms, ammunition and military stores, it shall be in the discretion of the Court or Magistrate passing sentence on such person further to declare the whole or any portion of such arms, ammunition or military stores to be confiscated.

Power to provide penalty for breach of rule.

20. The Governor General in Council or the Local Government may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that may ensue from such breach, a punishment, on conviction before a Magistrate, of imprisonment for a term not exceeding one month, or of fine not exceeding two hundred rupees, or of both.

VII.—Miscellaneous.

Search and seizure by Magistrate.

21. Whenever a Magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition or military stores for any unlawful purpose,

or that such person cannot be left in the possession of any such arms, ammunition or military stores without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person, or in which such Magistrate has reason to believe such arms, ammunition or military stores are or is to be found, and may seize and detain the same, whether covered by a license or not, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, the Magistrate, or by or in the presence of some European officer, civil or military, to be especially empowered by the Local Government.

Seizure and detention by Local Government.

22. The Local Government may at any time seize any arms, ammunition or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

Power to exempt.

23. The Governor General in Council may from time to time by notification published in the *Gazette of India*—

(*a*) exempt any person by name or office or any class of persons, or withdraw any part of British India, from the operation of any prohibition contained in this Act;

(*b*) cancel any such notification and subject the person or part comprised therein again to the operation of such prohibition.

Power to delegate.

24. The Governor General in Council may from time to time delegate to any Local Government, absolutely or subject to conditions, all or any of the powers conferred by sections eight, twelve and twenty-three to be exercised by such Government within the territories under its administration by notification in its official Gazette.

Sanction required to certain prosecutions under section 25, cl (*f*).

25. Where an offence punishable under section 15, clause (*f*), has been committed within three months from the date on which this Act comes into force in any province, district or place to which section 32, clause 2 of Act XXXI of 1860 applies at such date, or where such an offence has been committed in any part of British India not being such a district, province or place, no proceedings shall be instituted against any person in respect of such offence without the previous sanction of the Magistrate of the district

Searches in the case of offences against section 15, cl. (*f*), how conducted.

26. Where a search is to be made under the Code of Criminal Procedure in the course of any proceedings instituted in respect of an offence punishable under section 15, clause (*f*), such search shall, notwithstanding anything contained in the said Code, be made in the presence of some officer specially appointed by name or office by the Local Government in this behalf, and not otherwise.

Notice and limitation of suits.

27. No suit or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act, without giving him not less than one month's previous notice in writing of the intended proceeding and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

THE FIRST SCHEDULE.

Number and year.	Title.	Extent of repeal.
XVIII of 1841	An Act for consolidating and amending the enactments concerning the exportation of Military Stores.	So much as has not been repealed.
XXX of 1854	An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban and Tenasserim Provinces.	In the preamble the words "and that the exportation of munitions of war from any of these Provinces into foreign States should be prohibited." Section 11.
XXXI of 1860	An Act relating to the manufacture, importation and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.	So much as has not been repealed.
VI of 1866	An Act to continue Act No. XXXI of 1860 (relating to the manufacture, importation and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases), and for other purposes.	The whole.
III of 1872	The Santhál Parganas Settlement Regulation.	So much of the schedule as relates to Act XXXI of 1860 and Act VI of 1866.
IX of 1874	The Arakan Hills District Laws Regulation, 1874.	So much of the schedule as relates to Act XVIII of 1841.
XV of 1874	An Act for declaring the local extent of certain Enactments, and for other purposes.	So much of the first schedule as relates to Act XVIII of 1841.

THE SECOND SCHEDULE.

Duties on arms and military stores imported by sea.

	Rs.	As.
Fire-arms other than pistols, for each ...	50	
Barrels for the same, whether single or double, for each	30	
Pistols for each	15	
Barrels for the same, whether single or double, for each	10	
Springs used for fire-arms, for each ...	8	
Gun-stocks, sights, blocks and rollers, for each	5	

THE SECOND SCHEDULE—*continued.*

	Rs.	As.
Revolver-breeches, for each cartridge which they will carry ...	2	8
Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates, and all other parts of a fire-arm not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each ...	1	8
Machines for making or loading or closing cartridges, for each ...		10
Machines for capping cartridges, for each	2	8
Airguns, for each		50
Apparatus for charging airguns, for each		20
Bullet-moulds, for each		0 4
Punches for making gunwads, for each		0 4

STATEMENT OF OBJECTS AND REASONS.

THE law relating to arms, ammunition and military stores has long been felt to be in an unsatisfactory state. In some particulars it has been found defective, and on many points it presents difficulties of construction which might at any time prove embarrassing to the Government or entail hardship on innocent persons.

2. So far back as the year 1870 a Bill was introduced to remedy this state of things; but, owing in part to press of work and in part to other causes, it was allowed to stand over.

3. The present Bill is in the main a consolidation of the existing law, and a re-enactment of it in a simpler form with such improvements in points of detail as the experience of the working of the Arms Act of 1860 has shown to be desirable. On two points only does it propose to introduce changes of any importance.

4. The first of these points is dealt with in section 7, which, taken with the second schedule, imposes duties on the importation by sea of arms and parts of arms, &c. Those duties, it will be observed, are fixed without reference to the value of the articles on which they are imposed, and they are so fixed and are pitched, at what may seem at first sight to be high rates, expressly with a view to check the importation of a cheap class of arms, the importation of which has of late years largely increased.

5. Such arms cannot, from their inferior make, be intended for sporting purposes, and there is reason to suspect that a considerable proportion of them finds its way into the hands of the criminal classes in the interior of the country or of the hostile tribes on our frontiers. It has been found very difficult to prevent the transit of such arms from the seaports into the interior of the country and towards the frontiers when once they are imported, and it is believed that the simplest method of checking their importation, and the method least calculated to interfere with the legitimate trade in arms of a superior class, is to impose an uniform duty of the nature proposed.

6. The other point on which the Bill goes to introduce a material change in the existing law is that of the possession of arms. At present the mere possession of arms is prohibited only in certain provinces, which, to use the language of Act XXXI of 1860, have been "disarmed." Throughout the rest of the country, though no person can go armed or carry arms except under a special exemption or by virtue of a license, the mere possession of arms other than cannon is not restricted.

7. Now there is good reason to believe that this complete absence of restriction in the districts which have not been disarmed has led to the law prohibiting the transport of arms and the export of arms across the frontiers being extensively evaded. As long as all persons indiscriminately may have arms in their possession to any amount they please in the districts which have not been disarmed, it is practically impossible to prevent such arms being passed on to the disarmed districts, to the predatory classes in Native States, and to the hostile tribes on our frontiers.

The only remedy seems to be to place the possession of arms throughout the whole of British India under control, and this it is proposed to do by section 11 of the Bill, which requires all such possession to be under a license.

8. It will, however, be observed that ample safeguards are provided to prevent this prohibition pressing unfairly against respectable persons desiring to possess arms for legitimate purposes. Section 11 allows a period of three months after the Bill becomes law within which the possession of arms in the districts not hitherto disarmed will not be illegal, and during which any person in such districts can apply for a license; section 25 enacts that in these districts no person shall be prosecuted for possessing arms without the previous sanction of the Magistrate of the District; section 26 imposes special and very stringent conditions on searches for arms; and lastly, under section 23, the Government may exempt any class of persons from the operation of the prohibition altogether.

9. On the whole it may be safely affirmed that, with a system of licenses granted either without charge or on the payment of small fees, and in cases where it is safe so to grant them for reasonably long periods, the Bill will not, as regards the possession of arms, materially affect the position of any persons to whom the right to possess arms can, with a due regard to the public peace and safety, be conceded.

10. It need only be added that section 3 of the Bill maintains in force all exemptions granted under the present law.

E. C. BAYLEY.

CALCUTTA;
The 12th December 1877.

D. FITZPATRICK,
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 27th December 1877:—

No. 23 OF 1877.

A Bill for the licensing of trades and dealings in the Panjáb, the North-Western Provinces and Oudh.

Preamble.

WHEREAS, in order to provide means for defraying the public expenditure from time to time incurred and to be incurred for the relief and prevention of famine in British India, it is necessary to effect a permanent increase of the revenue available for provincial purposes; and it is therefore expedient that persons carrying on trades and dealings in the territories and provinces respectively administered by the Lieutenant-Governor of the Panjáb, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, should take out licenses and pay for the same; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Northern India License Act, 1878."

Local extent.

It extends to the territories under the administration of the Lieutenant-Governor of the Panjáb, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, respectively; but nothing herein contained applies to persons earning their livelihood solely by agriculture.

Commencement.

This Act shall come into force in any of the said territories on such date as the Governor General in Council by notification in the *Gazette of India* directs in that behalf.

Repeal of Act VIII of 1877.

2. When this Act comes into force in the territories under the administration of the Lieutenant-Governor of the North-Western Provinces, Act No. VIII of 1877 (*for the licensing of certain trades and dealings in the North-Western Provinces*) shall be repealed.

"Collector" defined.

3. In this Act "Collector" means the chief officer in charge of the revenue-administration of a district.

Annual licenses to be taken out.

4. Every person who, on or after the first day of April 1878, falls, in any of the said territories, under any of the heads specified in the schedule hereto annexed, and, carries on (whether on behalf of himself or any other person) his trade or dealing, shall take out a license under this Act, and shall pay for the same the annual fee mentioned in such schedule as payable by persons of the class and grade to which he belongs.

Officer to grant license.

5. Every license under this Act shall be granted by the Collector of the District in which the person requiring such license carries on his trade or dealing: provided that, if such person carries on such trade or dealing in more than one district, the license shall be granted by the Collector of the district in which his principal place of business is situate.

Every such license shall be signed by the Collector granting it, or by such officer as he may appoint in this behalf.

Particulars to be specified in the license.

6. Every such license shall specify—

(*a*) the date of the grant thereof:

(*b*) the name, father's name, caste and trade or dealing of the licensee:

(*c*) the class and grade to which he belongs:

(*d*) the fee paid for the license:

(*e*) the place or places where the licensee intends to carry on his trade or dealing for the ensuing year; and

(*f*) the term for which the license shall remain in force,

and shall be received in evidence as *primâ facie* proof of all matters contained therein.

Commencement and expiration of license.

7. Every such license shall have effect and continue in force from the day of the date thereof till the first day of January next after the date of the grant thereof.

Renewal of license.

8. Every person to whom any such license has been granted, and who desires to continue to carry on his trade or dealing after the expiration of such license, shall take out a fresh license for that purpose for the following year, to expire on the day appointed in the last preceding section, and shall renew the same so long as he desires to continue to carry on such trade or dealing.

List of Licensees.

Collector to prepare annual list of licensees.

9. As soon as may be after the first day of April 1878 and the first day of January in every subsequent year, the Collector shall prepare a list of the persons to be licensed under this Act in his district. Such list shall state—

(*a*) the trade or dealing of each of the persons therein named;

(*b*) the class and grade under which he is charged; and

(*c*) the fee to be paid for his license.

Such list shall be in the language of the district, shall be filed in the office of the Collector, and shall be open to public inspection at all reasonable times without any payment.

Collector to determine class under which licensee is to be charged.

10. The Collector shall, from time to time, determine under which of the classes and grades mentioned in the said schedule every person to whom a license may be granted by him as aforesaid shall be charged, and shall amend the said list accordingly.

Publication of list and notification.

The list or such part or parts thereof as the Collector thinks fit shall be published in the principal muhallas or ganjes of all towns, and in the chaupál, or other public place, in all villages concerned, together with a notification that if any person mentioned in such list continues his trade or dealing, payment of the amount specified in the list as payable by him must be made in the year 1878 within thirty days of such publication in that year and within thirty days next after the first day of January in each succeeding year.

11. The Collector may, by a notice in writing, require the occupier of any house to forward to him a statement in writing signed by such occupier of the names of all persons residing in such house at the date of the notice and of their respective callings.

Collector may require list of persons in any house.

12. Any person mentioned in the list referred to in sections nine and ten and objecting to the class or grade under which he is charged may, within thirty days after such publication, or within such further time as the Collector may in each case think fit, apply by petition to the Collector in order to establish his right to have his name transferred to another class or grade, or altogether removed from the list.

Petition of objector.

13. The Collector shall fix a day for the hearing of the petition, and on the day so fixed, or on such subsequent day as he may from time to time direct, shall hear the same and pass such order thereon as he thinks fit:

Hearing of petition.

Provided that if, in his judgment, the petitioner is able to shew that the fee which has been charged exceeds two per cent. upon his annual net earnings, such excess shall, for the purpose of section twelve, be deemed a valid objection.

Provided also that the Collector shall not, in the course of any proceedings under this section, call for any evidence except at the instance of the petitioner, or in order to ascertain the correctness of facts alleged by him.

14. Any person dissatisfied with such order may within fifteen days from the date thereof present a petition of appeal to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Appeal from order on petition.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, a copy of his order thereon, and all other documents (if any) connected with the case.

15. The Collector may in his discretion remit the whole or any part of the fee payable under this Act by any person who has carried on his trade or dealing for a portion of the year only.

Power to remit fee.

16. A person or firm coming under more than one of the designations in the said schedule shall be chargeable only under one of the said designations at the discretion of the Collector; and in the case of a firm, payment by any one of the partners shall, for the purposes of this Act, be considered payment by the firm.

Persons carrying on several trades.

17. If, after expiry of the period mentioned in the notification published under section ten, for payment of the amount specified therein, any person (whether he is or is not mentioned in the said list) carries on his trade or dealing without having taken out a license as required by this Act, he shall be liable, by order of the Collector, to pay a fine not exceeding thrice the amount payable by him in respect of such license, exclusive of the amount so payable; and on receipt of such payment the Collector shall grant him a license.

Penalty for carrying on business without a license.

All sums due under this section and all fees payable under this Act shall be recoverable as if they were arrears of land-revenue.

18. Every person holding a license under this Act shall produce and show such license when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition.

License to be produced on demand.

But no person shall be proceeded against for neglect or refusal to produce such license except at the instance of the Collector.

Prosecution to be at instance of Collector.

19. Courts of Wards and receivers and managers appointed by any Court in British India, shall be chargeable under this Act in respect of any trade or dealing of which the income is officially in their possession or under their control.

Receivers and managers chargeable.

20. When any trustee, guardian, curator, committee or agent is charged under this Act in such capacity, or when any Court of Wards or Receiver or manager appointed by any Court is charged under this Act, every person and Court so charged may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such Court of Wards, Receiver or manager, retain so much as is sufficient to pay the fee charged.

Power to retain assessment paid by trustee, &c.

Every such person or Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Municipalities.

21. The Collector of the District may require any Municipal Committee to furnish, within a period to be specified under the orders of the Local Government, returns showing the names and numbers of persons chargeable under this Act resident within the limits of such Municipality, together with the class and grade to which they respectively belong and the fees payable by them respectively.

Power to require returns from Municipalities.

If the Municipal Committee fails within the period prescribed to make such returns, or if it make such returns but the Collector of the District has reason to doubt their accuracy, he may at any time cause a return showing the names, numbers, classes and grades aforesaid to be prepared in such manner as may be prescribed by the Local Government.

22. When the return mentioned in section 21 has been furnished or prepared, notice shall be served on the Municipality, calling on it to pay to the Collector of the District, within a period to be specified in the notice, a sum calculated on such return in accordance with the provisions of this Act.

Notice to Municipalities.

Any Municipality may appropriate any part of its revenues to the payment of the sum leviable from it under this section, or raise such further sums in addition to its existing revenue as may be needful for such payment: provided that such further sums be raised in accordance with the Act under which such Municipality is constituted.

Miscellaneous.

23. All fees and penalties paid or recovered under this Act shall be carried to the credit of the Local Government.

Disposal of fees and penalties.

The amount so credited shall be applied, in such manner as the Governor General in Council thinks fit, for the purpose of defraying expenditure incurred or to be incurred for the relief and prevention of famine in the territories administered by such Local Government, or, if the Governor General in Council so directs, in any other part of British India.

24. All or any of the powers and duties conferred and imposed by this Act on a Collector may, subject to the orders of the Collector of the District, be exercised and performed by an Assistant Collector or such other officer as the Local Government from time to time appoints in this behalf.

Powers of Collector under Act may be exercised by other officers.

25. Every person shall be legally bound to furnish information to any officer exercising any of the powers of a Collector under this Act when required by him to do so.

Obligation to furnish information to Collector.

26. The Local Government may, from time to time, with the previous sanction of the Governor General in Council,—

Power to exempt and make rules.

(*a*) exempt any portion of the territories administered by such Government, or any persons or class of persons in such territories, from the operation of this Act;

(*b*) exempt from the operation of this Act any persons whose respective nett annual earnings are less than such sum as the Local Government may, from time to time, direct in this behalf;

(*c*) make rules consistent with this Act, (1) for regulating the time and manner of collecting the fees charged under this Act, (2) for providing in any case or class of cases for serving notices on persons charged under this Act, (3) for determining the mode in which persons belonging to any class shall be distributed into grades, and (4) generally for the guidance of officers in matters connected with the enforcement of this Act.

THE SCHEDULE.

See section 4.

CLASS I.

	Fee payable by licensee.
	Rs.
Companies registered under the Indian Companies Act, 1866	First grade 200
Bankers	Second grade 100
Professional money-lenders ...	Third grade 15
Owners of cotton-screws ...	
Persons keeping shops for the sale of European goods ..	
Hotel-keepers	
Wholesale-dealers ...	
Dealers in precious stones ...	
Sugar Refiners ...	
Indigo Manufacturers ...	

CLASS II.

	Rs.
Cloth-sellers	First grade 75
Metal-vessel-sellers ...	Second grade 50
Fuel-sellers (talwálas) ...	Third grade 25
Chaudhrís	Fourth grade 10
Letters-out of conveyances and cattle	
Contractors (thíkadárs) ...	
Printers and publishers ...	
Manufacturers of lac ...	
Commission-agents ...	
Brokers	
Bill-brokers	
Pawn-brokers	
Money-changers ...	
Dealers in gold and silver lace	
Druggists	
Harness-makers ...	
Dealers in metals, not being merely artizans ...	

CLASS III.

	Rs.
Artizans, traders, and dealers not above specified	First grade 5
	Second grade 2
	Third grade 1

STATEMENT OF OBJECTS AND REASONS.

In the Financial Statement for 1877-78, attention was drawn to the necessity imposed upon the Government of India of bringing the public Revenues and Expenditure into a condition of proper equilibrium. The events that have occurred since that time have shown that the urgency of the case has become greater with each succeeding month of the prolonged crisis through which the country has been passing.

After the Famine of 1874 in Northern Bengal, the Government of Lord Northbrook declared that such calamities could no longer be treated as abnormal or exceptional, and that sound financial principles required that the grave obligations entailed by Famine upon the Government should be explicitly recognised and provided for among the ordinary charges of the State.

The Secretary of State agreed with Lord Northbrook's Government, that the periodical occurrence of Famine ought to enter into the calculation of the Government of India when making provision for its ordinary wants from year to year, and that such a surplus should be provided in each year as would make a sensible impression on the debt incurred in times of Famine. Her Majesty's Government have recently reaffirmed this principle.

To enable the Government to discharge the obligations placed upon it to meet these requirements, additional taxation has been deemed necessary. To provide for a portion of this in a manner suited to the condition of the country and the special circumstances of the case, the present measure is proposed.

JOHN STRACHEY.

CALCUTTA,
The 27th December 1877.

D. FITZPATRICK,
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 27th December 1877 :—

No. 24 OF 1877.

A Bill for the levy of Additional Rates on Land in the North-Western Provinces.

WHEREAS, in order to defray the expenditure incurred and to be incurred for the relief and prevention of famine, it is necessary to make a permanent increase to the annual revenues available for provincial purposes, and it is therefore expedient to provide, in the territories administered by the Lieutenant-Governor of the North-Western Provinces, for the levy on land of additional rates to be applied to local purposes; It is hereby enacted as follows :— Preamble.

1. This Act may be called "The North-Western Provinces Local Rates Enhancement Act, 1878," and it shall come into force on such date as the Governor General in Council by notification in the *Gazette of India* directs. Short title. Commencement.

2. On and from such date Act No. VII of 1877 *(to amend the law relating to assignments from the General Provincial Fund established under the North-Western Provinces Local Rates Act, 1871)* shall be repealed. Repeal.

3. In section three of the North-Western Provinces Local Rates Act, 1871, after the proviso the following shall be inserted, that is to say— Act XVIII of 1871, Section 3, amended.

"Every estate situate in a district of which the land-revenue is liable to periodical revision, shall be liable, in addition to any rates levied under the foregoing portion of this section, to the payment of such further rate, not exceeding one per cent. on its annual value, as the Lieutenant-Governor from time to time imposes. Further rate.

"Such further rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate."

4. To section four of the same Act the following clause shall be added, that is to say :— Section 4 of same Act amended.

"The Lieutenant-Governor may from time to time impose upon any such estate, in addition to any rate imposed under the first clause of this section, a further rate of such amount not exceeding half an anna for each acre as aforesaid as he thinks fit." Further rate.

5. In sections five, seven, and eight of the same Act, after the word "rate" wherever it occurs, the words "or further rate" shall be inserted. Sections 5, 7, and 8 of same Act amended.

6. For section ten of the same Act, the following section shall be substituted: Substitution of new section for section 10 of same Act.

"10 (*a*). From such fund the Lieutenant-Governor shall in each year appropriate such amount, not exceeding the proceeds of the further rates assessed in such year under sections three and four, as the Governor General in Council may direct, for the purpose of defraying expenditure incurred or to be incurred for the relief and prevention of famine in the said territories.

"Provided that the whole or any portion of such amount may, if the Governor General in Council so directs, be expended for the relief and prevention of famine in any other part of British India.

"(*b*). The Lieutenant-Governor may, from time to time, assign from such fund such amount as he thinks fit, to be applied in payment of charges incurred or to be incurred on account of such canals and railways as he, with the previous sanction of the Governor General in Council, may declare to be works of general provincial utility.

"Provided that the amounts so assigned in any year shall not exceed one-tenth of the proceeds of the rates assessed in such year under the first clause of section three and the first clause of section four.

"(*c*.) Subject to the appropriation directed by clause (*a*), the Lieutenant-Governor shall from time to time allot from such fund such amounts as he thinks fit to be applied in each district for expenditure on all or any of the following purposes :—

"(1.) The construction, repair, and maintenance of roads and other means of communication;

"(2.) The maintenance of the Rural Police and District-post;

"(3.) The construction and repair of schoolhouses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships;

"(4.) The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience.

"Provided that the amounts so allotted in any year for any district shall not be less than nine-tenths of the proceeds of the rates assessed under the first clause of section three and the first clause of section four in such district in such year."

7. In section eleven of the same Act, for the word "assignments" the word "allotments" shall be substituted. Sections 11, 12, 13 and 14 of same Act amended.

In section twelve of the same Act, for the word "assignment" in each of the places where it occurs, the word "allotment" shall be substituted, and for the word "reassigned" the word "re-allotted" shall be substituted.

And in section thirteen of the same Act, for the word "assignment" the word "allotment" shall be substituted.

And in section fourteen of the same Act, for the word "amount" in each of the places where it occurs, the word "allotment" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

In the Financial Statement for 1877-78, attention was drawn to the necessity imposed upon the Government of India of bringing the public Revenues and Expenditure into a condition of proper equilibrium. The events that have occurred since that time have shown that the urgency of the case has become greater with each succeeding month of the prolonged crisis through which the country has been passing.

After the famine of 1874 in Northern Bengal, the Government of Lord Northbrook declared that such calamities could no longer be treated as abnormal or exceptional, and that sound financial principles required that the grave obligations entailed by famine upon the Government should be explicitly recognised and provided for among the ordinary charges of the State.

The Secretary of State agreed with Lord Northbrook's Government, that the periodical occurrence of famine ought to enter into the calculation of the Government of India when making provision for its ordinary wants from year to year, and that such a surplus should be provided in each year as would make a sensible impression on the debt incurred in times of Famine. Her Majesty's Government have recently re-affirmed this principle.

To enable the Government to discharge the obligations placed upon it to meet these requirements, additional taxation has been deemed necessary. To provide for a portion of this in a manner suited to the condition of the country and the special circumstances of the case, the present measure is proposed.

JOHN STRACHEY.

CALCUTTA, *The 27th December 1877.*

D. FITZPATRICK,
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 27th December 1877 :—

No. 25 OF 1877.

A Bill for the levy of Additional Rates on Land in Oudh.

WHEREAS, in order to defray the expenditure incurred and to be incurred for the relief and prevention of famine, it is necessary to make a permanent increase to the annual revenues available for Provincial purposes; and it is therefore expedient to provide, in the territories administered by the Chief Commissioner of Oudh, for the levy on land of additional rates to be applied to local purposes; It is hereby enacted as follows :— Preamble.

1. This Act may be called "The Oudh Local Rates Enhancement Act, 1878;" and it shall come into force on such date as the Governor General in Council by notification in the *Gazette of India* directs. Short title. Commencement.

2. In section three of the Oudh Local Rates Act (No. XVII of 1871), for the word "one" the word "two" shall be substituted. Act XVII of 1871, section 3, amended.

3. For section ten of the said Act the following shall be substituted :— New section substituted for section 10 of the same Act.

"10 (*a*). From such fund the Chief Commissioner shall in each year appropriate such amount, not exceeding four-ninths of the proceeds of the rate assessed in such year under this Act, as the Governor General in Council may direct, for the purpose of defraying expenditure incurred or to be incurred for the relief and prevention of famine in the said territories:

"Provided that the whole or any portion of such amount may, if the Governor General in Council so directs, be expended for the relief and prevention of famine in any other part of British India.

"(*b*.) Subject to such appropriation, the Chief Commissioner shall from time to time allot from the said fund such amounts as he thinks fit to be applied in each district for expenditure on all or any of the following purposes :—

"(1.) The construction, repair, and maintenance of roads and other means of communication;

"(2.) The construction and repair of schoolhouses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships;

"(3.) The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works and undertakings of public utility, likely to promote the public health, comfort or convenience.

"Provided that the amounts so allotted in any year for any district shall not be less than five-ninths of the proceeds of the rate assessed in such district in such year."

4. In sections eleven and twelve of the same Act, for the word "assignment," in each of the places in which it occurs, the word "allotment" shall be substituted, and for the word "re-assigned" the word "re-allotted" shall be substituted. Sections 11 and 12 of the same Act amended.

5. In section thirteen of the same Act, for the words "mentioned in" the words "allotted under" shall be substituted. Section 13 of the same Act amended.

STATEMENT OF OBJECTS AND REASONS.

In the Financial Statement for 1877-78, attention was drawn to the necessity imposed upon the Government of India of bringing the public Revenues and Expenditure into a condition of proper equilibrium. The events that have occurred since that time have shown that the urgency of the case has become greater with each succeeding month of the prolonged crisis through which the country has been passing.

After the Famine of 1874 in Northern Bengal, the Government of Lord Northbrook declared that such calamities could no longer be treated as abnormal or exceptional, and that sound financial principles required that the grave obligations entailed by Famine upon the Government should be explicitly recognised and provided for among the ordinary charges of the State.

The Secretary of State agreed with Lord Northbrook's Government, that the periodical occurrence of Famine ought to enter into the calculation of the Government of India when making provision for its ordinary wants from year to year, and that such a surplus should be provided in each year as would make a sensible impression on the debt incurred in times of Famine. Her Majesty's Government have recently reaffirmed this principle.

To enable the Government to discharge the obligations placed upon it to meet these requirements, additional taxation has been deemed necessary. To provide for a portion of this in a manner suited to the condition of the country and the special circumstances of the case, the present measure is proposed.

JOHN STRACHEY.

CALCUTTA,
The 27th December 1877.

D. FITZPATRICK,
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 27th December 1877 :—

No. 26 OF 1877.

A Bill for the levy of Additional Rates on Land in the Panjáb.

WHEREAS, in order to defray the expenditure incurred and to be incurred for the relief and prevention of famine, it is necessary to make a permanent increase to the annual revenues available for provincial purposes, and it is therefore expedient to provide, in the territories administered by the Lieutenant-Governor of the Panjáb, for the levy on land of additional rates to be applied to local purposes ; It is hereby enacted as follows :— Preamble.

1. This Act may be called "The Panjáb Local Rates Enhancement Act, 1878;" Short title.

And it shall come into force on such date as the Governor General in Council by notification in the *Gazette of India* directs. Commencement.

2. On and from such date the following portions of the Panjáb Local Rates Act, 1871, shall be repealed, that is to say— Act XX of 1871 in part repealed.

(*a*). in section three, the words and figures following, namely, "shall be computed as from the first day of April 1871 and :"

(*b*). in section four, the illustration.

3. In section three of the said Act, for the word "six" the word "eight" shall be substituted. Act XX of 1871, section 3, amended.

4. For section six of the said Act the following shall be substituted :— New section substituted for section 6 of the same.

"6. (*a*). From the sums so credited, the Lieutenant-Governor shall in each year appropriate such amount as the Governor General in Council may direct for the purpose of defraying a due proportion of the expenditure incurred or to be incurred for the relief and prevention of famine in the said territories :

"Provided that the whole or any portion of such amount may, if the Governor General in Council so directs, be expended for the relief and prevention of famine in any other part of British India.

"(*b*). Subject to such appropriation, the Lieutenant-Governor shall from time to time allot from the said sums such amount as he thinks fit to be applied in each district for expenditure on all or any of the following purposes :—

"(1). The construction, repair, and maintenance of roads and other means of communication ;

"(2.) The construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships ;

"(3.) The construction and repair of hospitals, dispensaries, lunatic asylums, wells, and tanks, the payment of all charges connected with the purposes for which such buildings or works have been constructed, the planting and preservation of trees, and any other local works likely to promote the public health, comfort, or convenience.

"Provided that the amounts so allotted in any year for any district shall not in the aggregate be less than three-fourths of the proceeds of the rate assessed in such district in such year."

5. In sections seven, eight and nine of the same Act, for the words "assignment" and "assignments" wherever they occur, the words "allotment" and "allotments" shall be respectively substituted ; and in section eight of the same Act, for the word "re-assigned" the word "re-allotted" shall be substituted. Sections 7, 8, and 9 of same Act amended.

6. In section ten of the said Act, for the words "mentioned in" the words "allotted under" shall be substituted. Section 10 of the same amended.

STATEMENT OF OBJECTS AND REASONS.

In the Financial Statement for 1877-78, attention was drawn to the necessity imposed upon the Government of India of bringing the public Revenues and Expenditure into a condition of proper equilibrium. The events that have occurred since that time have shown that the urgency of the case has become greater with each succeeding month of the prolonged crisis through which the country has been passing.

After the Famine of 1874 in Northern Bengal, the Government of Lord Northbrook declared that such calamities could no longer be treated as abnormal or exceptional, and that sound financial principles required that the grave obligations entailed by Famine upon the Government should be explicitly recognised and provided for among the ordinary charges of the State.

The Secretary of State agreed with Lord Northbrook's Government that the periodical occurrence of Famine ought to enter into the calculation of the Government of India when making provision for its ordinary wants from year to year, and that such a surplus should be provided in each year as would make a sensible impression on the debt incurred in times of Famine. Her Majesty's Government have recently re-affirmed this principle.

To enable the Government to discharge the obligations placed upon it to meet these requirements, additional taxation has been deemed necessary. To provide for a portion of this in a manner suited to the condition of the country and the special circumstances of the case, the present measure is proposed.

JOHN STRACHEY.

CALCUTTA,
The 27th December 1877.

D. FITZPATRICK,
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 27th December 1877 :—

No. 27 OF 1877.

A Bill for the levy of Additional Rates on land in the Central Provinces.

WHEREAS, in order to defray the expenditure incurred and to be incurred for the relief and prevention of famine, it is necessary to make a permanent increase to the annual revenues available for provincial purposes ; and it is therefore expedient to provide, in the territories administered by the Chief Commissioner of the Central Provinces, for the levy of additional rates on land to be applied to local purposes ; It is hereby enacted as follows :— Preamble.

1. This Act may be called "The Central Provinces Additional Rates Act, 1878." Short title.

It extends only to the territories administered by the Chief Commissioner of the Central Provinces ; Local extent.

And it shall come into force on such date as the Governor General in Council by notification in the *Gazette of India* directs. Commencement.

2. Every estate shall be liable, in addition to the rates and cesses payable under any settlement for the time being in force, to the payment of such further rate not exceeding one per cent. on its annual value, as the Chief Commissioner, with the previous sanction of the Governor General in Council, from time to time imposes. Additional rate on estates.

"Annual value" means

(1). in cases in which the settlement of the land-revenue is liable to periodical revision, double the amount of the land-revenue for the time being assessed on an estate ;

(2). in cases in which such settlement is not liable to such revision, or in which the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned, double the amount which, if the settlement were liable to such revision, or an assessment at full rates were to be made, would be assessable as land-revenue on the estate.

3. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable. Recovery of rates.

4. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund. Rates to be carried to general fund.

5. From such fund the Chief Commissioner shall from time to time appropriate such amount as the Governor General in Council may direct, for the purpose of defraying a due proportion of the expenditure incurred or to be incurred in the said territories for the relief and prevention of famine : Appropriation for relief and prevention of famine.

Provided that the whole or any portion of such amount may, if the Governor General in Council so directs, be expended on the same objects in any part of British India.

Subject to such appropriation, any portion of the fund may be applied by the Chief Commissioner to such local works likely to promote the public health, comfort or convenience as he thinks fit.

6. The Chief Commissioner, with the previous sanction of the Governor General in Council, may by notification in the Local Gazette from time to time— Supplementary powers of Chief Commissioner.

(*a*) determine by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected and paid ;

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement ;

(*c*) exempt any portion of the territories under his government from the operation of this Act, or exempt any estate from liability to pay the whole or any part of any rate under this Act ;

(*d*) direct fresh measurements of estates liable to pay rates under this Act, and vary the assessments accordingly.

STATEMENT OF OBJECTS AND REASONS.

In the Financial Statement for 1877-78, attention was drawn to the necessity imposed upon the Government of India bringing the public Revenues and Expenditure into a condition of proper equilibrium. The events that have occurred since that time have shown that the urgency of the case has become greater with each succeeding month of the prolonged crisis through which the country has been passing.

After the Famine of 1874 in Northern Bengal, the Government of Lord Northbrook declared that such calamities could no longer be treated as abnormal or exceptional, and that sound financial principles required that the grave obligations entailed by Famine upon the Government should be explicitly recognised and provided for among the ordinary charges of the State.

The Secretary of State agreed with Lord Northbrook's Government, that the periodical occurrence of Famine ought to enter into the calculation of the Government of India when making provision for its ordinary wants from year to year, and that such a surplus should be provided in each year as would make a sensible impression on the debt incurred in times of Famine. Her Majesty's Government have recently re-affirmed this principle.

To enable the Government to discharge the obligations placed upon it to meet these requirements, additional taxation has been deemed necessary. To provide for a portion of this in a manner suited to the condition of the country and the special circumstances of the case, the present measure is proposed.

JOHN STRACHEY.

CALCUTTA,
The 27th December 1877.

D. FITZPATRICK,
Secy. to the Govt. of India.

INDEX TO

The Gazette of India

JANUARY TO JUNE 1877.

PART V.

	Page		
BILLS INTRODUCED INTO THE COUNCIL OF THE GOVERNOR GENERAL FOR MAKING LAWS AND REGULATONS, OR PUBLISHED UNDER RULE 2—			
No. 1 of 1877.—"The Indian Forest Bill, 1877."—A Bill to amend the law relating to the management and preservation of Government forests, to the transit of forest-produce, and to the duty leviable on timber	1	19	37
No. 2 of 1877.—"The Broach and Kaira Incumbered Estates Bill, 1877."—A Bill to relieve from incumbrances the estates of Thakurs in Broach and Kaira	11	29	47
No. 3 of 1877.—"The Transport of Salt Act, 1877."—A Bill to restrict the transport of Salt by Sea	16	34	52
No. 4 of 1877.—A Bill to amend Act XIII of 1875	17	35	...
No. 5 of 1877.—"The Indian Limitation Bill, 1877."—A Bill for the Limitation of Suits and for other purposes	55	75	95
No. II.—"The Transport of Salt Act, 1877."—Report of a Select Committee, together with the Bill as settled by them, being a Bill to restrict the transport of Salt by Sea	94*a*	...	...
No. 6 of 1877.—A Bill to amend the law relating to Assignments from the General Provincial Fund established under the North-Western Provinces Local Rates Act, 1871	115	119	...
No. 7 of 1877.—"The North-Western Provinces License Act, 1877."—A Bill for the licensing of certain trades and dealings in the North-Western Provinces	116	120	...
No. 8 of 1877.—"The Military Lunatics Act, 1877."—A Bill to facilitate the admission of Military Lunatics into Asylums	123	125	149
No. 9 of 1877.—A Bill to revive and amend Act No. XXIII of 1867	124	...	...
No. 10 of 1877.—"The Burma Embankment Act, 1877."—A Bill to provide for the execution of emergent works in connection with embankments in British Burma	126	150	153
No. II.—"The Indian Limitation Bill, 1877."—Report of a Select Committee, together with the Bill as settled by them, being a Bill for the Limitation of Suits and for other purposes ...	127	...	...
No. 11 of 1877.—A Bill to amend the Bombay Revenue Jurisdiction Act, 1876	155	175	195
No. 12 of 1877.—A Bill to amend the Chutia Nagpur Encumbered Estates Act, 1876 ...	156	176	196
No. 13 of 1877.—"The Transfer of Property Bill, 1877."—A Bill to define and amend the law relating to the Transfer of Property	156	176	196

INDEX TO

The Gazette of India.

JULY TO DECEMBER 1877.

PART V.

Page

BILLS INTRODUCED INTO THE COUNCIL OF THE GOVERNOR GENERAL FOR MAKING LAWS AND REGULATIONS, OR PUBLISHED UNDER RULE 2—

No. 14 of 1877.—The Panjáb Courts Bill, 1877.—A Bill to consolidate and amend the law relating to Courts in the Panjáb 215, 223, 231

No. 15 of 1877.—The Master and Servant Bill, 1877.—A Bill to define and amend the law relating to Master and Servant 239, 253, 267

No. 16 of 1877.—The Stamp Bill, 1877.—A Bill to consolidate and amend the law relating to Stamps and Court fees 281, 341, 415

No. 17 of 1877.—A Bill to enable the District Judges of the Presidency of Fort St. George to suspend and remove certain Ministerial Officers, and for other purposes 320, 380, 454

No. II.—The Negotiable Instruments Bill, 1877.—Report of a Select Committee, together with the Bill as settled by them, being a Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques 321, 381, 455

No. 18 of 1877.—A Bill to amend the North-Western Provinces Land Revenue Act, 1873 ... 400, 474, 535

No II.—The Indian Forest Bill, 1877.—Report of a Select Committee, together with the Bill as settled by them, being a Bill to amend the law relating to forests, the transit of forest produce, and the duty leviable on timber 400, 474, 536

No. 19 of 1877.—A Bill to amend the Panjáb Laws Act, 1872 ... ... 488, 550, 597

No. 20 of 1877.—A Bill to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices 490, 552, 599

No. II.—Sea Customs Bill, 1877.—Report of a Select Committee, together with the Bill as settled by them, being a Bill to consolidate and amend the law relating to the levy of Sea Customs duties 491, 553, 601

No. 21 of 1877.—"The Opium Act, 1877."—A Bill to amend the Opium Act, 1876 ... ... 645, 651, ...

No. 22 of 1877.—The Indian Arms Bill, 1878.—A Bill to consolidate and amend the law relating to arms, ammunition and military stores ... ... 646, 652, ...

No. 23 of 1877.—"The Northern India License Act, 1878."—A Bill for the licensing of trades and dealings in the Panjáb, the North-Western Provinces and Oudh ... ... 657 ... ...

No 24 of 1877.—"The North-Western Provinces Local Rates Enhancement Act, 1878."—A Bill for the levy of additional rates on land in the North-Western Provinces ... ... 660 ... ...

No. 25 of 1877.—"The Oudh Local Rates Enhancement Act, 1878".—A Bill for the levy of additional rates on land in Oudh ... ... 661 ... ...

No. 26 of 1877.—"The Panjáb Local Rates Enhancement Act, 1878".—A Bill for the levy of additional rates on land in the Panjáb ... ... 662 ... ...

No. 27 of 1877.—"The Central Provinces Additional Rates Act, 1878".—A Bill for the levy of additional rates on land in the Central Provinces ... ... 663 ... ...