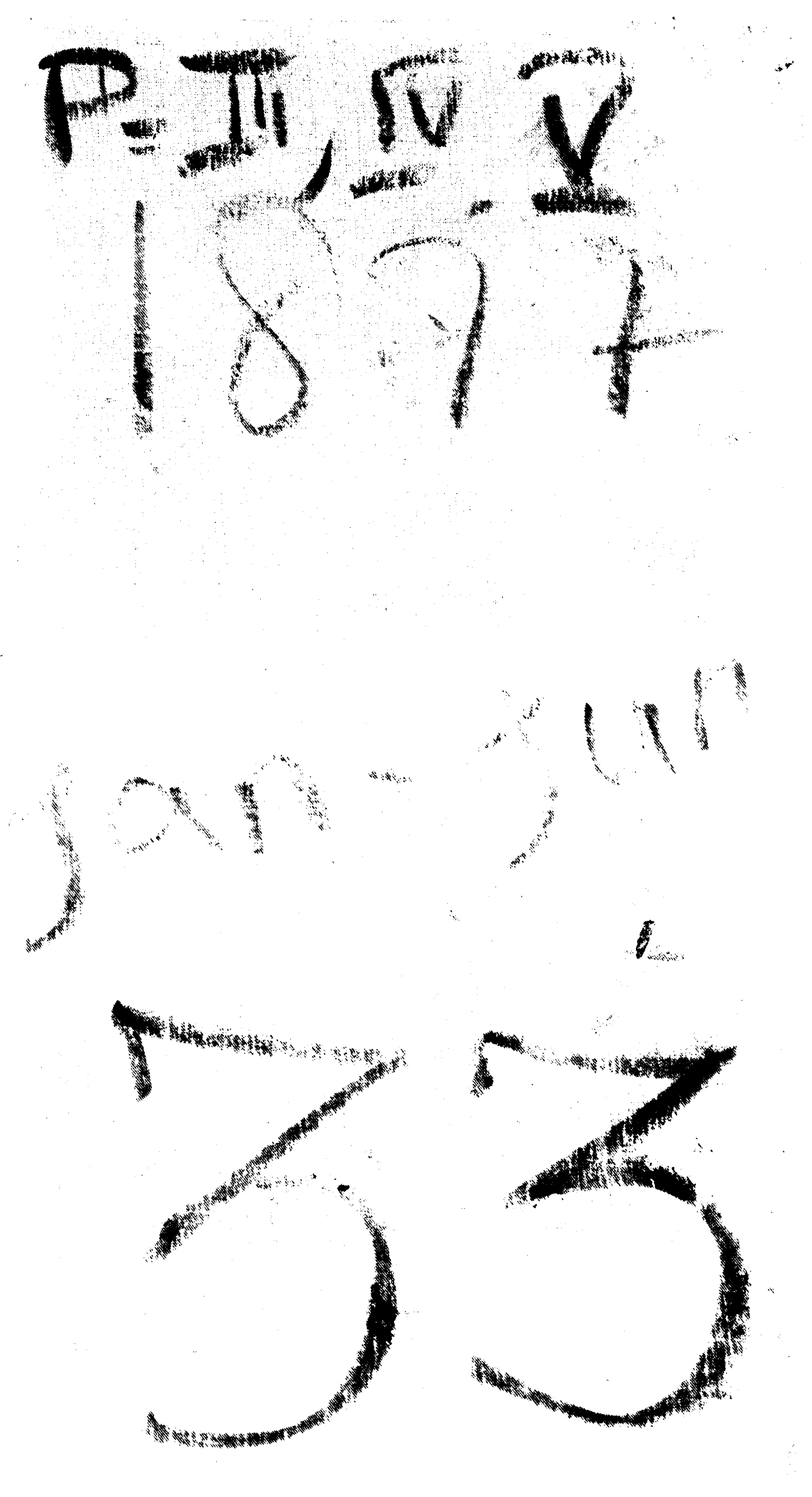


The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 6, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

We have admitted Mr. William James Ker a partner in our firm as from the 1st instant.

CALCUTTA, *The 3rd January 1877.* } KER, DOD & Co.

Estate—THOMAS ACKROYD, deceased.

STATUTORY NOTICE TO CREDITORS.—Notice is hereby given that all Creditors and other persons having any claims against the Estate of the above-named deceased, late Manager of the Coochela Tea Company, Limited, at Hylakandy, Cachar, are hereby required to send, in writing, the particulars thereof to the undersigned on or before the 20th day of March 1877, after which date the undersigned will distribute the assets of the Estate of the said deceased amongst the parties entitled thereto, having regard to the claims of which he has then had notice; and notice is hereby further given that the undersigned will not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

Dated this 18th day of December 1876.

J. M. REID,
Administrator to the Estate of the deceased.

THE CALCUTTA JUTE MILLS COMPANY, "Limited."

Notice is hereby given that an Extraordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, "Limited," will be held at the Company's Office, No. 104, Clive Street, Calcutta, on the 8th day of February 1877, at 3 o'clock in the afternoon, at which meeting the following Resolution, which it is intended to confirm at a subsequent meeting, as a Special Resolution, will be proposed:—

That the 74th Article of the present Articles of Association of the Company be amended and, as amended, do stand as follows:—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept and give Bills of Exchange and Promissory Notes, on behalf, and for the purposes, of the Company. And in particular the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company subject to the now existing mortgage charge of £30,000, created by certain debentures and by an indenture of mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a trust deed and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof, in cash or at the option of the holder thereof, to be declared in writing, not later than six calendar months previous to the expiration of such five years, by the allotment to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

By Order of the Board,

BORRADAILE, SCHILLER & Co.,
Managing Agents.

104, CLIVE STREET, CALCUTTA, *The 6th December 1876.*

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 13, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

ASSAM COMPANY.

An *ad-interim* Dividend of Rs. 20 per share, or 10 per cent., account 1876, is now payable.

SCHOENE, KILBURN & Co.,
Agents.

4, FAIRLIE PLACE,
The 11th January 1877.

NOTICE.

We have admitted Mr. William James Ker a partner in our firm as from the 1st instant.

CALCUTTA, KER, DOD & Co.
The 3rd January 1877.

THE CALCUTTA JUTE MILLS COMPANY, "Limited."

Notice is hereby given that an Extraordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, "Limited," will be held at the Company's Office, No. 104, Clive Street, Calcutta, on the 8th day of February 1877, at 3 o'clock in the afternoon, at which meeting the following Resolution, which it is intended to confirm at a subsequent meeting, as a Special Resolution, will be proposed:—

That the 74th Article of the present Articles of Association of the Company be amended and, as amended, do stand as follows:—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept and give Bills of Exchange and Promissory Notes, on behalf, and for the purposes, of the Company. And in particular the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company subject to the now existing mortgage charge of £30,000, created by certain debentures and by an indenture of mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a trust deed and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof, in cash or at the option of the holder thereof, to be declared in writing, not later than six calendar months previous to the expiration of such five years, by the allotment to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

By Order of the Board,

BORRADAILE, SCHILLER & Co.,
Managing Agents.

104, CLIVE STREET, CALCUTTA,
The 6th December 1876.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 20, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

In the High Court of Judicature at Fort William in Bengal—Ordinary Original Jurisdiction.

Notice is hereby given that on Tuesday the twenty-third day of January, instant, a Session of the High Court of Judicature at Fort William in Bengal, in its Ordinary Original Jurisdiction, will be holden at the hour of eleven o'clock in the forenoon, before Her Majesty's Justices of the said Court in the Town of Calcutta, in execution of a mandamus issued out of Her Majesty's High Court of Justice, Chancery Division, at Westminster, directed to the Chief Justice and the other Judges of the High Court for the examination *vivâ-voce*, on oath, of Walter Lang, Adam Brydon Struthers, Robert Scott Moncrieff, &c., and several other persons witnesses on the part of the plaintiffs and defendants, and for receiving other proofs in a certain action now pending in the said High Court of Justice, Chancery Division, between Robert Cochrane Williamson, Andrew Williamson, William Robert Cowan, and William Craik, plaintiffs, and Robert Barbour, Charles Augustus Stewart, the elder since deceased), Charles Stewart (since deceased), George Beatson Blair, and John MacMillan Dunlop, defendants.

Dated this eleventh January one thousand eight hundred and seventy-seven.

R. BELCHAMBERS,
Registrar.

CHAUNTRELL & Co.,
Attorneys.

SANDERSON & Co.,
Attorneys.

NOTICE.

We have admitted Mr. William James Ker a partner in our firm as from the 1st instant.

CALCUTTA, *The 3rd January 1877.* } KER, DOD & Co.

Estate—THOMAS ACKROYD, deceased.

STATUTORY NOTICE TO CREDITORS.—Notice is hereby given that all Creditors and other persons having any claims against the Estate of the above-named deceased, late Manager of the Coochela Tea Company, Limited, at Hylakandy, Cachar, are hereby required to send, in writing, the particulars thereof to the undersigned on or before the 20th day of March 1877, after which date the undersigned will distribute the assets of the Estate of the said deceased amongst the parties entitled thereto, having regard to the claims of which he has then had notice; and notice is hereby further given that the undersigned will not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

Dated this 18th day of December 1876.

J. M. REID,
Administrator to the Estate of the deceased.

Central Provinces' Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

THE CALCUTTA JUTE MILLS COMPANY, "Limited."

Notice is hereby given that an Extraordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, "Limited," will be held at the Company's Office, No. 104, Clive Street, Calcutta, on the 8th day of February 1877, at 3 o'clock in the afternoon, at which meeting the following Resolution, which it is intended

to confirm at a subsequent meeting, as a Special Resolution, will be proposed :—

That the 74th Article of the present Articles of Association of the Company be amended and, as amended, do stand as follows :—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept and give Bills of Exchange and Promissory Notes, on behalf, and for the purposes, of the Company. And in particular the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company subject to the now existing mortgage charge of £30,000, created by certain debentures and by an indenture of mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a trust deed and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof, in cash or at the option of the holder thereof, to be declared in writing, not later than six calendar months previous to the expiration of such five years, by the allotment to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

By Order of the Board,

BORRADAILE, SCHILLER & Co.,
Managing Agents.

104, CLIVE STREET, CALCUTTA,
The 6th December 1876.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 27, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

BENGAL IRON WORKS COMPANY, LIMITED.

An Extraordinary General Meeting of Shareholders of the above Company will be held at the Registered Office, No. 38, Strand, Calcutta, on Saturday, January 27th, at noon, to pass the following Resolution to extend the power to borrow money, *viz.* :—

That Clause 75 of the Articles of Association be altered by expunging the words—

"so that not more than Rs. 1,00,000 principal money be due at any one time."

By order of the Directors,

RUTHERFORD & Co.,
Agents & Secretaries.

Goods of HENRY OATTS, deceased.

STATUTORY NOTICE TO CREDITORS.—Pursuant to "The Trustees and Mortgagees Powers' Act, 1866," notice is hereby given that all creditors and other persons having claims against the estate of the deceased, late of Nohatta, Jessore, Indigo Planter, who died on the 18th May 1876, and Probate of whose Will was granted to Mrs. Anne Oatts, his widow, and sole Executrix, on the 13th June 1876, by the High Court, Calcutta, are required to send in writing the particulars of their claims to the undersigned on or before the 23rd day of April 1877, after which date the Executrix will distribute the assets of the estate of the deceased amongst the parties entitled thereto, having regard to the claims of which she has then had notice. And notice is hereby further given that the said Executrix will not be liable for the assets or any part thereof so distributed, to any person of whose claim she shall not have had notice at the time of such distribution. Dated this 23rd day of January 1877.

SANDERSON & Co.,
Attorneys for the said Executrix.

NOTICE.

We have admitted Mr. William James Ker a partner in our firm as from the 1st instant.

CALCUTTA, *The 3rd January 1877.* KER, DOD & Co.

THE CALCUTTA JUTE MILLS COMPANY, "Limited."

Notice is hereby given that an Extraordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, "Limited," will be held at the Company's Office, No. 104, Clive Street, Calcutta, on the 8th day of February 1877, at 3 o'clock in the afternoon, at which meeting the following Resolution, which it is intended to confirm at a subsequent meeting, as a Special Resolution, will be proposed :—

That the 74th Article of the present Articles of Association of the Company be amended and, as amended, do stand as follows :—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept and give Bills of Exchange and Promissory Notes, on behalf, and for the purposes, of the Company. And in particular the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company subject to the now existing mortgage charge of £30,000, created by certain debentures and by an indenture of mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a trust deed and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof, in cash or at the option of the holder thereof, to be declared in writing, not later than six calendar months previous to the expiration of such five

years, by the allotment to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

By Order of the Board,

BORRADAILE, SCHILLER & Co.,
Managing Agents.

104, CLIVE STREET, CALCUTTA,
The 6th December 1876.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

BENGAL IRON WORKS COMPANY, LIMITED.

An Extraordinary General Meeting of the Shareholders of the above Company will be held at the Registered Office, Calcutta, on Monday, 12th February 1877, at noon, for the purpose of confirming the Resolution passed at the Extraordinary General Meeting of January 27th, 1877, *viz.*:—

That Clause 75 of the Articles of Association be altered by expunging the words—

"so that not more than Rs. 1,00,000 principal money be due at any one time."

By order of the Directors,

RUTHERFOORD & Co.,
Agents & Secretaries.

NOTICE.

Notice is hereby given that the Sixth Ordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Office of the Managing Agents here, on Thursday, the 5th day of April 1877, at 12 o'clock noon, for the purpose of receiving a Report from the Directors, of electing Directors and Auditors, and of transacting the ordinary business of the Meeting.

The Transfer Books will be closed from Thursday, the 22nd March, to Wednesday, the 4th April, both days inclusive.

By Order,

BORRODAILE, SCHILLER & Co.,
Managing Agents.

CALCUTTA,
The 1st February 1877.

THE CALCUTTA JUTE MILLS COMPANY, "Limited."

Notice is hereby given that an Extraordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, "Limited," will be held at the Company's Office, No. 104, Clive Street, Calcutta, on the 8th day of February 1877, at 3 o'clock in the afternoon, at which meeting the following Resolution, which it is intended to confirm at a subsequent meeting, as a Special Resolution, will be proposed:—

That the 74th Article of the present Articles of Association of the Company be amended and, as amended, do stand as follows:—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept and give Bills of Exchange and Promissory Notes, on behalf, and for the purposes, of the Company. And in particular the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company subject to the now existing mortgage charge of £30,000, created by certain debentures and by an indenture of mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a trust deed and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof, in cash or at the option of the holder thereof, to be declared in writing, not later than six calendar months previous to the expiration of such five years, by the allotment to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

By Order of the Board,

BORRADAILE, SCHILLER & Co.,
Managing Agents.

104, CLIVE STREET, CALCUTTA,
The 6th December 1876.

NOTICE.

Nundolal Bose and Passuputtynath Bose of Sham Bazar, in the Town of Calcutta, being about to execute a Deed of Trust to Sreemutty Thacooranee Dassee and others, conveying over all their properties situated in Zillah Gya, Patna, Loharduggа, and 24-Pergunnahs, and in the Town of Calcutta, and its Suburbs, the creditors of the said Nundo Lal Bose and Passuputtynath Bose are hereby requested to send in particulars of their claims against the said Nundolal Bose and Passuputtynath Bose within fifteen days from the date hereof, at their residence in No. 13, Bindabun Pal's bye-Lane, Sham Bazar, Calcutta; in order that arrangements may be made for the payment of the same before execution of the said Deed.

NUNDOLAL BOSE.
PASSUPUTTY NATH BOSE.

CALCUTTA,
The 1st February 1877.

Estate—THOMAS ACKROYD, deceased.

STATUTORY NOTICE TO CREDITORS.—Notice is hereby given that all Creditors and other persons having any claims against the Estate of the above-named deceased, late Manager of the Coochela Tea Company, Limited, at Hylakandy, Cachar, are hereby required to send, in writing, the particulars thereof to the undersigned on or before the 20th day of March 1877, after which date the undersigned will distribute the assets of the Estate of the said deceased amongst the parties entitled thereto, having regard to the claims of which he has then had notice; and notice is hereby further given that the undersigned will not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

Dated this 18th day of December 1876.

J. M. REID,
Administrator to the Estate of the deceased.

NOTICE.

We have admitted Mr. William James Ker a partner in our firm as from the 1st instant.

CALCUTTA,
The 3rd January 1877. KER, DOD & Co.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

BENGAL IRON WORKS COMPANY LIMITED.

An Extraordinary General Meeting of the Shareholders of the above Company will be held at the Registered Office, Calcutta, on Monday, 12th February 1877, at noon, for the purpose of confirming the resolution passed at the Extraordinary General Meeting of 27th January 1877, *viz.*:—

That Clause 75 of the Articles of Association be altered by expunging the words—

"so that not more than Rs. 1,00,000 principal money be due at any one time."

By order of the Directors,
RUTHERFOORD & CO.,
Agents & Secretaries.

Calcutta, 27th January 1877.

BENGAL IRON WORKS COMPANY LIMITED.

The Office of the Company is removed to No. 3, Fairlie Place.

MARILLIER & EDWARDS,
Agents & Secretaries.

NOTICE.

We have admitted Mr. William James Ker a partner in our firm as from the 1st instant.

CALCUTTA,
The 3rd January 1877. KER, DOD & Co.

NOTICE

Is hereby given that the partnership heretofore subsisting between the undersigned Johann Heinrich Marie Stohmann, Ernest Kraushaar and Henry Schumacher at Akyab, as rice-millers, under the style of Schumacher & Company, has this day been dissolved as from the 1st July 1876, and that the business will in future be carried on by the undersigned, Johann Heinrich Marie Stohmann and Ernest Kraushaar.

Dated this 15th July 1876.

J. H. M. STOHMANN.
E. KRAUSHAAR.
H. SCHUMACHER.

NOTICE.

Nundolal Bose and Passuputtynath Bose of Sham Bazar, in the Town of Calcutta, being about to execute a Deed of Trust to Sreemutty Thacooranee Dassee and others, conveying over all their properties situated in Zillah Gya, Patna, Loharduggа, and 24-Pergunnahs, and in the Town of Calcutta, and its Suburbs, the creditors of the said Nundo Lal Bose and Passuputtynath Bose are hereby requested to send in particulars of their claims against the said Nundolal Bose and Passuputtynath Bose within fifteen days from the date hereof, at their residence in No. 13, Bindabun Pal's bye-Lane, Sham Bazar, Calcutta, in order that arrangements may be made for the payment of the same before execution of the said Deed.

NUNDOLAL BOSE.
PASSUPUTTY NATH BOSE.

CALCUTTA,
The 1st February 1877.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per

Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

PROMISSORY NOTES.

Lost

The lower half of the Government Promissory Note No. $\frac{055565}{028720}$ of the four and a half per cent. of 16th January 1872, for Rs. 10,000, originally standing in the name of the Bank of Madras and endorsed by the Agent at Negapatam for the Bank of Madras to V. Thavasu Muthu Nadar, the proprietor, by whom it was never endorsed to any other person. There is the transfer endorsement only on the upper half of the Government Promissory Note now existing, and there is no endorsement on the lower half of it. Payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is to be made for the issue of duplicates in favor of the proprietor.

V. THAVASU MUTHU NADAR,
Poriar Company Garden, near Tranquebar, Mayaveram Taluq, Tanjore District.

CAMP MANNARGOODY,
The 30th November 1876.

Lost.

The Government Promissory Loan Note, No. 033633 of 1859-60, of 5½ per cent., dated the 31st May 1859, for Company's Rs. 1,000, now standing in the name of Shapurjee Jehangir, the proprietor, by whom it was never endorsed to any other person. Payment of the above note and of interest thereupon has been stopped in the Public Debt Office, Bombay, and application is made to Public Debt Office, for the issue of a duplicate note in favour of the proprietor.

SHAPURJEE JEHANGIR,
Girgaum Back Road, No. 178, Care of Jehangir Bezonjee.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

THE CALCUTTA JUTE MILLS COMPANY, LIMITED.

Minutes of an Extraordinary General Meeting of Shareholders of the CALCUTTA JUTE MILLS COMPANY, "LIMITED," *held at the Office of the Company, No. 104, Clive Street, Calcutta, on Thursday, the 8th day of February 1877, at 3 o'clock* P. M.

PRESENT:

Messrs. H. COHN.
G. J. SCOTT.
F. SCHILLER.
D. FUCHS.
POOLIN CHUNDER ROY.
A. B. STRUTHERS.
G. M. STRUTHERS.
JOHN MCINTOSH, *Attorney for* CAPTAIN L. C. GORDON and CHARLES CURRIE.

Proxies.—MESSRS. S. BIRD and JOHN MCINTOSH *in favor of* CAPTAIN G. J. SCOTT.

CAPTAIN G. J. SCOTT having been voted to the Chair, and the Notice convening the Meeting read, the following Resolution, which it is intended to confirm at a subsequent Meeting as a special Resolution, was—

Proposed by MR. D. FUCHS,
Seconded by BABOO POOLIN CHUNDER ROY—

That the 74th Article of the present Articles of Association of the Company be amended, and as amended, do stand as follows:—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept, and give bills of exchange and promissory notes on behalf and for the purposes of the Company. And in particular, the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company, subject to the now existing mortgage charge of £30,000, created by certain debentures and by an Indenture of Mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a Trust Deed, and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof in cash, or at the option of the holder thereof, to be declared in writing, not later than six calendar months previous to the expiration of such five years, by the allotments to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

G. J. SCOTT,
Chairman.

THE CALCUTTA JUTE MILLS COMPANY, LIMITED.

Notice is hereby given that an Extraordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Company's Office, 104, Clive Street, Calcutta, on the 26th day of February 1877, at 3 o'clock in the afternoon, for the purpose of confirming and making special the following Resolution (unanimously) passed at an Extraordinary General Meeting of the said Company, held at No. 104, Clive Street, aforesaid, on the 8th day of February 1877—

That the 74th Article of the present Articles of Association of the Company be amended, and as amended, do stand as follows:—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept, and give bills of exchange and promissory notes on behalf and for the purposes of the Company. And in particular the Directors may borrow a sum not exceeding £15,000 (or

Rs. 1,50,000) upon a second mortgage charge of the property of the Company, subject to the now existing mortgage charge of £30,000 created by certain debentures, and by an Indenture of Mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a Trust Deed and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof in cash or at the option of the holder thereof to be declared in writing not later than six calendar months, previous to the expiration of such five years by the allotment to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

By order of the Board,

BORRADAILE, SCHILLER & Co.,
Managing Agents.

104, CLIVE STREET, CALCUTTA;
The 10th February 1877.

NOTICE

Is hereby given that the partnership heretofore subsisting between the undersigned Johann Heinrich Marie Stohmann, Ernest Kraushaar and Henry Schumacher at Akyab, as rice-millers, under the style of Schumacher & Company, has this day been dissolved as from the 1st July 1876, and that the business will in future be carried on by the undersigned, Johann Heinrich Marie Stohmann and Ernest Kraushaar.

Dated this 15th July 1876.

J. H. M. STOHMANN.
E. KRAUSHAAR.
H. SCHUMACHER.

Goods of HENRY OATTS, deceased.

STATUTORY NOTICE TO CREDITORS.—Pursuant to "The Trustees and Mortgagees Powers' Act, 1866," notice is hereby given that all creditors and other persons having claims against the estate of the deceased, late of Nohatta, Jessore, Indigo Planter, who died on the 18th May 1876, and Probate of whose Will was granted to Mrs. Anne Oatts, his widow, and sole Executrix, on the 13th June 1876, by the High Court, Calcutta, are required to send in writing the particulars of their claims to the undersigned on or before the 23rd day of April 1877, after which date the Executrix will distribute the assets of the estate of the deceased amongst the parties entitled thereto, having regard to the claims of which she has then had notice. And notice is hereby further given that the said Executrix will not be liable for the assets or any part thereof so distributed, to any person of whose claim she shall not have had notice at the time of such distribution. Dated this 23rd day of January 1877.

SANDERSON & Co.,
Attorneys for the said Executrix.

Estate—THOMAS ACKROYD, deceased.

STATUTORY NOTICE TO CREDITORS.—Notice is hereby given that all Creditors and other persons having any claims against the Estate of the above-named deceased, late Manager of the Coochela Tea Company, Limited, at Hylakandy, Cachar, are hereby required to send, in writing, the particulars thereof to the undersigned on or before the 20th day of March 1877, after which date the undersigned will distribute the assets of the Estate of the said deceased amongst the parties entitled thereto, having regard to the claims of which he has then had notice; and notice is hereby further given that the undersigned will not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

Dated this 18th day of December 1876.

J. M. REID,
Administrator to the Estate of the deceased.

PROMISSORY NOTES.

Stolen.

The Government Promissory Note No. 066870, of the India 4 per cent. loan of 1st May 1865, for Rs. 600, originally standing in the name of Esther Male, the proprietor, by whom it was never endorsed to any other person. Payment of the above Note, and the interest thereupon, have been stopped at the Public Debt Office, Bank of Bengal, and Bank of England, and application is to be made for the issue of duplicate in favor of the Proprietor.

Apply to—

COLVIN, COWIE & Co.
1, Hastings Street, Calcutta.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

THE CALCUTTA JUTE MILLS COMPANY, LIMITED.

Minutes of an Extraordinary General Meeting of Shareholders of the CALCUTTA JUTE MILLS COMPANY, "LIMITED," *held at the Office of the Company, No. 104, Clive Street, Calcutta, on Thursday, the 8th day of February 1877, at 3 o'clock* P. M.

PRESENT:

Messrs. H. COHN.
G. J. SCOTT.
F. SCHILLER.
D. FUCHS.
POOLIN CHUNDER ROY.
A. B. STRUTHERS.
G. M. STRUTHERS.
JOHN MCINTOSH, *Attorney for* CAPTAIN L. C. GORDON and CHARLES CURRIE.

Proxies.—MESSRS. S. BIRD and JOHN MCINTOSH *in favor of* CAPTAIN G. J. SCOTT.

CAPTAIN G. J. SCOTT having been voted to the Chair, and the Notice convening the Meeting read, the following Resolution, which it is intended to confirm at a subsequent Meeting as a special Resolution, was—

Proposed by MR. D. FUCHS,
Seconded by BABOO POOLIN CHUNDER ROY—

That the 74th Article of the present Articles of Association of the Company be amended, and as amended, do stand as follows:—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept, and give bills of exchange and promissory notes on behalf and for the purposes of the Company. And in particular, the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company, subject to the now existing mortgage charge of £30,000, created by certain debentures and by an Indenture of Mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a Trust Deed, and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof in cash, or at the option of the holder thereof, to be declared in writing, not later than six calendar months previous to the expiration of such five years, by the allotments to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

G. J. SCOTT,
Chairman.

THE CALCUTTA JUTE MILLS COMPANY, LIMITED.

Notice is hereby given that an Extraordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Company's Office, 104, Clive Street, Calcutta, on the 26th day of February 1877, at 3 o'clock in the afternoon, for the purpose of confirming and making special the following Resolution (unanimously) passed at an Extraordinary General Meeting of the said Company, held at No. 104, Clive Street, aforesaid, on the 8th day of February 1877—

That the 74th Article of the present Articles of Association of the Company be amended, and as amended, do stand as follows:—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept, and give bills of exchange and promissory notes on behalf and for the purposes of the Company. And in particular the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company, subject to

the now existing mortgage charge of £30,000 created by certain debentures, and by an Indenture of Mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a Trust Deed and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof in cash or at the option of the holder thereof to be declared in writing not later than six calendar months, previous to the expiration of such five years by the allotment to such holder of one fully paid-up Preference Share of £50 in respect of each such debenture.

By order of the Board,
BORRADAILE, SCHILLER & Co.,
Managing Agents.

104, CLIVE STREET, CALCUTTA;
The 10th February 1877.

NOTICE.

Notice is hereby given that the Sixth Ordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Office of the Managing Agents here, on Thursday, the 5th day of April 1877, at 12 o'clock noon, for the purpose of receiving a Report from the Directors, of electfng Directors and Auditors, and of transacting the ordinary business of the Meeting.

The Transfer Books will be closed from Thursday, the 22nd March, to Wednesday, the 4th April, both days inclusive.

By Order,
BORRODAILE, SCHILLER & Co.,
Managing Agents.

CALCUTTA,
The 1st February 1877.

NOTICE

Is hereby given that the partnership heretofore subsisting between the undersigned Johann Heinrich Marie Stohmann, Ernest Kraushaar and Henry Schumacher at Akyab, as rice-millers, under the style of Schumacher & Company, has this day been dissolved as from the 1st July 1876, and that the business will in future be carried on by the undersigned, Johann Heinrich Marie Stohmann and Ernest Kraushaar.

Dated this 15th July 1876.

J. H. M. STOHMANN.
E. KRAUSHAAR.
H. SCHUMACHER.

PROMISSORY NOTES.

Lost.

The Government Promissory Loan Note, No. 033633 of 1859-60 of 5½ per cent., dated the 31st May 1859, for Company's Rs. 1,000, now standing in the name of Shapurjee Jehangir, the proprietor by whom it was never endorsed to any other person. Payment of the above note and of interest thereupon has been stopped in the Public Debt Office, Bombay, and application is made to Public Debt Office for the issue of a duplicate note in favour of the proprietor.

SHAPURJEE JEHANGIR,
Girgaum Back Road, No. 178,
Care of Jehangir Bezonjee.

Lost or Stolen

On the 16th January 1872, one Government Promissory Note, No. 005235 at 4½ per cent., for Rs. 500.

OMES CHUNDER BANNERJEE,
No. 12, Old Post Office Street.

Stolen.

The Government Promissory Note No. 066870, of the India 4 per cent. loan of 1st May 1865, for Rs. 600, originally standing in the name of Esther Male, the proprietor, by whom it was never endorsed to any other person. Payment of the above Note, and the interest thereupon, have been stopped at the Public Debt Office, Bank of Bengal, and Bank of England, and application is to be made for the issue of duplicate in favor of the Proprietor.

Apply to—

COLVIN, COWIE & Co.
1, Hastings Street, Calcutta.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

THE CALCUTTA JUTE MILLS COMPANY, LIMITED.

Minutes of an Extraordinary General Meeting of Shareholders of the Calcutta Jute Mills Company, "Limited," held at the Office of the Company, No. 104, Clive Street, Calcutta, on Monday, the 26th day of February 1877, at 3 o'clock, P.M.

PRESENT:

MESSRS. G. J. SCOTT.
H. COHN.
D. FUCHS.
J. OATES.
P. PAULSON.
G. M. STRUTHERS.

Proxies.—CAPT. G. J. SCOTT *for* MESSRS. S. BIRD, J. MACKINTOSH and A. J. BOLTON.

CAPT. G. J. SCOTT, *in the Chair.*

Read notice convening the Meeting.

Proposed by Mr. J. Oates.
Seconded by Mr. D. Fuchs.

That the resolution passed at the Meeting of the Company on the 8th instant, be hereby confirmed, *viz.*:—

That the 74th Article of the present Articles of Association of the Company be amended, and as amended, do stand as follows:—

74. The Directors shall have power to borrow money on the security of the property of the Company or otherwise, and to draw, accept, and give bills of exchange and promissory notes on behalf and for the purposes of the Company. And in particular, the Directors may borrow a sum not exceeding £15,000 (or Rs. 1,50,000) upon a second mortgage charge of the property of the Company, subject to the now existing mortgage charge of £30,000, created by certain debentures and by an Indenture of Mortgage, dated the 21st day of July 1875, and may raise such sum of £15,000 (or Rs. 1,50,000) by the issue of debentures of £50 (or Rs. 500) each, according to the applications for the same. Such debentures shall be secured by a Trust Deed, and bear interest at the rate of 10 per cent. per annum, payable half-yearly, and each such debenture shall be repayable at the expiration of five years from the date of the issue thereof in cash, or at the option of the holder thereof, to be declared in writing, not later than six calendar months previous to the expiration of such five years, by the allotment to such holder of one fully paid up Preference Share of £50 in respect of each such debenture.

Carried—

G. J. SCOTT,
Chairman.

NOTICE.

Notice is hereby given that the Sixth Ordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Office of the Managing Agents here, on Thursday, the 5th day of April 1877, at 12 o'clock noon, for the purpose of receiving a Report from the Directors, of electfng Directors and Auditors, and of transacting the ordinary business of the Meeting.

The Transfer Books will be closed from Thursday, the 22nd March, to Wednesday, the 4th April, both days inclusive.

By Order,
BORRODAILE, SCHILLER & Co.,
Managing Agents.

CALCUTTA,
The 1st February 1877.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

Estate—THOMAS ACKROYD, deceased.

STATUTORY NOTICE TO CREDITORS.—Notice is hereby given that all Creditors and other persons having any claims against the Estate of the above-named deceased, late Manager of the Coochela Tea Company, Limited, at Hylakandy, Cachar, are hereby required to send, in writing, the particulars thereof to the undersigned on or before the 20th day of March 1877, after which date the undersigned will distribute the assets of the Estate of the said deceased amongst the parties entitled thereto, having regard to the claims of which he has then had notice; and notice is hereby further given that the undersigned will not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

Dated this 18th day of December 1876.

J. M. REID,
Administrator to the Estate of the deceased.

BENGAL CIVIL FUND.

AT a half-yearly general meeting of subscribers to the Bengal Civil Fund, held at the Town Hall, Calcutta, on Wednesday, the 31st January 1877.

PRESENT:—The Hon'ble W. F. McDonell, v.c., the Hon'ble F. R. Cockerell, T. Bruce Lane, Esq., the Hon'ble H. Bell, R. Taylor, Esq., A. T. Maclean, Esq., A. P. Howell, Esq., T. F. Bignold, Esq., H. Beverley, Esq., J. O'Kinealy, Esq., W. H. Grimley, Esq., W. M. Souttar, Esq., J. G. Charles, Esq., C. J. Lyall, Esq., and C. Macaulay, Esq.

The Hon'ble W. F. McDonell, v.c., in the chair.

The following report, submitted by the Managers, was taken as read:—

REPORT.

The Managers submit their proceedings for the past half-year for the consideration and sanction of the meeting Subject to the approval of the subscribers, they have admitted to the benefits of the Fund the following families:—

	£	
Mr. Carpenter's son ...	60	The son of the late Mr. C. W. Carpenter, who died at Sitabaldi, Central Provinces, on the 5th March last.
Mrs. Elliott	300	The widow and four children (one daughter and three sons) of the late Mr. C. P. Elliott, who died in England on the 1st July last.
Four children	300	
Total ...	600	
Mrs. Glover	300	The widow and three children (two daughters and one son) of the late Mr. F. A. B. Glover, who died at Galle on the 11th August last.
Three children	260	
Total ...	560	
Mrs. Walton	300	The widow of the late Mr. T. Walton, who died in England on the 17th October last.

	£	s.	d.	
Mrs. Clifford	300	0	0	The widow and six children (five daughters and one son) of the late Mr. R. H. Clifford, who died at Almorah on the 21st October last.
Six children	340	0	0	
Total ...	640	0	0	
Less one-sixth under rule 7	106	13	4	
Total ...	533	6	8	

The Managers submitted, on the 26th of January 1876, a statement in connection with the application of Mrs. Belli for pension. They were of opinion that that lady was not entitled to the Fund allowance, on the ground that her husband had made such a disposition of his property as caused his widow to become chargeable on the Fund. They accordingly recommended that her application should be disallowed, and the meeting approved the recommendation. Mr. Lane proposes to move a resolution with reference to Mrs. Belli's case at this meeting.

The Government of India, in their letter No. 3285, dated 9th October last, informing the Managers that Mr. A. G. Walker had been removed from the Service, and that Rs. 4,432 representing the amount of his subscription to the Fund, with interest, had been paid to him, enquired whether the Managers would consider it proper to recommend to the Service the repayment of the amount to Government. The Managers replied that a refund of subscription under such circumstances would be without precedent, and that they would be acting in opposition to existing rules and practice if they were to make the desired recommendation to the subscribers.

The report on the history of the Fund, prepared by Mr. O'Kinealy, having been submitted to the special general meeting of subscribers held on the 1st November last, the Managers were requested to prepare and forward an answer to the letter of the Government of India, No. 4377, of the 28th October 1875. Their reply is now submitted for the information of the subscribers.

The Managers, having reason to believe that the Government of India had submitted for the opinion of counsel a statement of the questions at issue with the Fund, asked to be favoured with a copy of the statement, as well as of the opinion recorded upon it by the legal advisers of Government. The Government of India declined to accede to this request.

A question having been raised as to the nature of the proof of marriage which would be required under Article XXV of the rules from Messrs. Romesh Chunder Dutt and Behari Lal Gupta, the two native subscribers to the Fund, it was ascertained that the only evidence forthcoming would be the statements of credible witnesses. To meet the cases of these gentlemen, therefore, the Managers have notified, under Article XVII (18) of the Rules, the following addition to Article XXV, which they submit for consideration:—

"Provided that a declaration on oath by not less than two eye-witnesses will be considered sufficient proof of marriage in the cases of Messrs. Romesh Chunder Dutt and Behari Lal Gupta."

The accounts of the past year 1875-76 are submitted.

Abstract of the Accounts of the Bengal Civil Fund for 1875-76.

	Bearing interest at 8 per cent.	Bearing interest at 5 per cent.
UNAPPROPRIATED FUNDS.	Rs. A. P.	Rs. A. P.
By Balance, 1st April 1875	33,18,857 1 2	31,65,512 8 8
„ Interest	2,97,732 0 9	1,64,876 1 0
„ Subscriptions during the year	2,56,379 7 9	2,03,856 13 1
„ Payments by two Annuitants in India to complete subscription balance to Rs. 25,000	6,165 0 0	.....
„ Ditto by one in England	4,437 0 0	.....
„ Composition payments by five Annuitants in England	2,255 14 4	1,871 7 8
„ Contributions by Annuitants in India	7,292 10 8	6,995 3 9
„ Ditto paid in England and by absentees on furlough... ...	12,944 15 11	10,830 6 1
„ Fine from 10 subscribers, including 6 for unequal age at marriage ...	.....	6,334 1 7
„ Ditto one in England	.....	50 0 0
„ Transfer from Appropriated Funds of deduction of one-sixth from pensions under Rule 7	18,210 13 5	5,136 6 2
„ Amount granted by Government for the payment of pensions of families of those subscribers who were killed in the mutiny	29,762 9 0	8,394 9 0
„ Transfer from Annuity Fund	1,404 0 0	396 0 0
„ Donation from the Government paid in England	25,000 0 0	.....
	39,80,441 9 0	35,74,253 9 0
DEDUCT—		
To Transfer to Appropriated Funds—		
„ Value of pensions of Mrs. W. M. Light (late Mrs. H. Sargent), widow of H. Sargent, under old rules	5,513 15 6	.....
„ Ditto of Mrs W. Travers, widow of W. Travers (Annuitant)	21,925 12 10	7,896 14 5
„ Ditto of Mrs. E. J. Boldero, widow of E. J. Boldero (Annuitant)	23,400 0 0	8,696 13 1
„ Ditto of Mrs. E. H. Harrison, one daughter and two sons	42,051 7 0	15,680 4 10
„ Ditto of Mrs. S. Wauchope and two daughters ...	34,355 1 7	12,244 1 6
„ Ditto of Mrs. W. G. Young, widow, one daughter, and one son of W. G. Young (Annuitant)	33,767 5 11	12,196 7 2
„ Ditto of Mrs. E. Montagu	23,322 12 6	8,979 15 4
„ Ditto of Lady F. Currie, widow, one daughter, and one son of Sir F. Currie (Annuitant)	30,147 12 5	10,622 14 4
„ Ditto of Mrs. S. S. Brown, widow of S. S. Brown (Annuitant)	21,467 2 7	7,661 15 0
„ Ditto of Mrs. H. C. Tucker, widow, and three daughters of H. C. Tucker (Annuitant)	38,880 10 7	13,816 2 4
„ Ditto of Mrs. W. J. H. Money, widow, and two daughters of W. J. H. Money (Annuitant)	32,677 5 1	11,514 7 6
„ Ditto of Mrs. H. Stainforth, widow of H. Stainforth (Annuitant)	13,581 5 9	4,406 13 1
„ Ditto of Mrs. F. Pollen and two daughters	34,213 2 3	13,390 0 7
„ Ditto of one son of C. W. Carpenter	5,772 7 6	1,980 15 10
„ Ditto of Mr John Jervis Beresford	8,081 9 3	3,144 3 10
„ Interest thereon	16,815 14 11	3,733 7 8
„ Transfer to Appropriated Funds on account of pensions payable by Government	29,762 9 0	8,394 9 0
„ Refund of overpaid subscriptions	755 2 0	880 2 10
„ Establishment, &c.	8,354 10 2	2,356 7 10
„ Printing charges	477 6 2	134 12 4
	4,25,323 9 0	1,47,731 8 6
Balance on 31st March 1876 ...	35,55,118 0 0	34,26,522 0 6
APPROPRIATED FUNDS.		
By Balance, 1st April 1875	46,93,370 0 7	12,92,844 8 11
„ Interest	3,51,366 15 7	64,240 10 7
„ Transferred from Unappropriated Funds, values of pensions granted to the above fifteen families within the year	3,69,157 14 9	1,32,232 0 10
„ Interest thereon	16,815 14 11	3,733 7 8
„ Transfer from Unappropriated Funds on account of pensions payable by Government	29,762 9 0	8,394 9 0
	54,60,473 6 10	15,01,445 5 0
DEDUCT—		
To Pensions paid in England under old Rules	1,86,200 0 0	.....
„ Ditto ditto under new Rules	3,44,910 5 11	1,08,679 6 1
„ Ditto in India under new Rules	20,814 9 8	5,870 12 7
„ Marriage donation	4,680 0 0	1,320 0 0
„ Transfer to Unappropriated Funds of the deduction of one-sixth from pensions under Rule 7	18,210 13 5	5,136 6 2
	5,74,815 13 0	1,21,006 8 10
Balance, 31st March 1876 ...	48,85,657 9 10	13,80,438 12 2
TOTAL BALANCE, 31ST MARCH 1876 ...	84,40,775 9 10	48,06,960 12 8

INVESTMENT OF THE ABOVE BALANCE.

	Rs.	A.	P.
Invested Treasury Notes at 8 per cent....	75,57,324	10	4
Uninvested at 8 per cent. (since invested)	8,83,450	15	6
Ditto at 5 per cent.	48,06,960	12	8
TOTAL ...	1,32,47,736	6	6

COMPARISON OF THE BALANCE.

	Rs.	A.	P.
Balance, 31st March 1875	1,24,70,584	3	4
Ditto, 31st March 1876	1,32,47,736	6	6
INCREASE ...	7,77,152	3	2

CIVIL FUND OFFICE;
The 31st January 1877.

E. E.

COLMAN MACAULAY,
Secretary and Accountant.

Proposed by *Mr. Robert Taylor*,

Seconded by *Mr. T. F. Reynold*, and carried unanimously—

That the Managers' proceedings in admitting the families of the late Messrs. Carpenter, Elliott, Glover, Walton, and R. H. Clifford to the benefits of the Fund be confirmed and the report and accounts be generally adopted.

Proposed by *Hon'ble F. R. Cockerell*,

Seconded by *Mr. R. Taylor*—

That to Article XXV of the rules be added the words "provided that a declaration on oath by not less than two eye witnesses will be considered sufficient proof of marriage in the cases of Messrs. Romesh Chunder Dutt and Beharilal Gupta."

Mr. Bell proposed that the words "*primâ facie*" be substituted for "sufficient." This amendment was seconded by *Mr. O'Kinealy* and carried unanimously.

Proposed by *Mr. T. Bruce Lane*,

Seconded by *Mr. A. T. Maclean*, and carried unanimously—

That the following gentlemen be elected managers for the ensuing year:—*Hon'ble L. S. Jackson, A. Money, Esq.*, C.B., *C. T. Buckland, Esq., J. O'Kinealy, Esq., W. M. Souttar, Esq.*

Mr. Lane drew the attention of the meeting to Mrs. Belli's case, stating that he did so at the request of Mrs. Belli, who had been informed by the Secretary, in his letter of the 12th July 1876, that any individual manager or member of the Service could bring forward her case at a half-yearly meeting. He urged that the disposition of his property made by Mr. Belli, by which his widow was declared by the Managers to have been thrown on the Fund, was an irrevocable trust settlement made in February 1867, at a time when Mr. Belli was 75 years old, had been a widower for some years, and had no children in circumstances which could enable them to make any claim upon the Fund. Presumably he was not at that time likely to marry again; but even assuming that he might do so, he would be then still in the position of a bachelor subscriber, who might make a trust settlement beyond his power to revoke hereafter, and might still marry after doing so without forfeiting his rights in the Fund. Mr. Lane further contended that there was no actual proof of any intention on Mr. Belli's part, when making the trust settlement of February 1867, "to benefit any party at the expense of the Fund," and that it was not right to throw on the widow of a marriage subsequently contracted the onus of proving the negative statement that no such intention existed. Mr. Belli's remarriage three months after he executed the settlement, though it might be considered suspicious, was not actual proof of such intention, and therefore insufficient to justify the extreme measure of refusing a pension to the widow. Looking therefore to the fact that the effect of the trust settlement, at the time when it was made, was not to "throw the support, entire or partial," of a single person on the Fund, that Mr. Belli had, as subscriber to the Fund, paid up more than Rs. 50,000, and that Mrs. Belli was now in a state of comparative poverty, Mr. Lane proposed that the decision of the half-yearly meeting of January 1876, refusing the application of Mrs. Belli for admission to the Fund under the old rules, should be submitted for the reconsideration of the Service.

Mr. O'Kinealy seconded the motion.

At the request of some of the subscribers present the Secretary then read the note which had formed the basis of the Managers' decision on the case.

"The accounts forwarded by Mrs. Belli show that her husband's property at his death was worth £21,727-6-9, and the income derivable from this property would be sufficient to absolutely exclude his widow and other members of his family from benefits under the old rules. On the 22nd February 1867 Mr. Belli made a settlement in trust for his three children of property now valued at £15,000, the condition of the settlement being that £5,000 was to be secured to each of these children and the balance was to form part of his own estate. A few months later, namely, on the 23rd of May 1867, he was married to his present widow. It would now appear from the papers submitted to the Managers that the property embraced by the deed of settlement is not more than sufficient to provide the sum of £15,000 to the children, and that there is no balance for credit to his own estate to which his widow is heir. The first question therefore to be determined is whether the assignment before Mr. Belli's second marriage of property worth £15,000 to the children of his first wife does or does not defeat the claim of his second wife to fund benefits under the old rules. The rule governing this question will be found in Article 26 of the old rules. Under the second paragraph of that article it is declared that a disposal of his property by a subscriber to the prejudice of the Fund debars his family from benefits if the *subscriber's intention be to benefit any party at the expense of the Fund*. In the present case the date of the settlement was the 22nd of February 1867, and that of his marriage the 23rd May 1867, so that it is far from improbable that at the time of making the settlement Mr. Belli contemplated his second marriage, and in this case his widow would be absolutely precluded from the benefits of the Fund. But even supposing that at the time of making the settlement he had not in contemplation his immediate marriage, Mr. Belli must have well known that if he did remarry the trust then made by him would have the effect of reducing his second wife's income so as to entitle her (other considerations apart) to fund benefits. If therefore a subscriber is presumed to intend the natural result of his acts, Mrs. Belli is now entirely excluded from fund benefits."

The Managers acting on this note held adversely to Mrs. Belli's claim, and submitted their decision to the general meeting of 26th January 1876, with the following report:—

The Managers also submit to this meeting the following statement in connection with the application of Mrs. Belli for pension:—Mr. Belli was a subscriber to the Fund under the old rules, and at the time of his decease, 29th July last, left property worth £21,727, out of which he was bound, under Article 26 of the old rules, to make a proper provision for his wife. That Article is as follows:—

"In case it shall be proved to the conviction of a general meeting of subscribers that a deceased member of this Fund has during his life-time, whether in immediate anticipation of his death or otherwise, made such a disposition of any part of his property, real or personal, as but for this rule would throw the entire or partial support of his widow or offspring upon the Fund, who would not have been so supported by the Fund had such part of his property not been so disposed of, with the intention thereby of benefiting any party at the expense of the Fund, then the widow or offspring of such a member or both shall forfeit all right to any part of the support which would have been claimable if no such disposition had been made.

"It is hereby declared that a general meeting of the latter (*i.e.*, subscribers), duly held according to the rules of the institution, shall have full power to reject the application for aid from the Fund in any instance in which it may appear that a subscriber having property at his death, and having the power to dispose of it, has made no due provision for his family."

The Mangers in administering the affairs of the Fund have invariably considered all private income left by a subscriber at death as available for the support of his family without reference to appropriations by testament or otherwise. In the present case Mr. Belli made such a disposition of his property in his life time, namely, a trust in favour of his children by his first wife, that but for Article 26 his widow would be chargeable on the Fund. Under these circumstances the Managers consider the widow not entitled to the Fund allowance, and they now submit the case to the general meeting, and recommend that Mrs. Belli's application be disallowed.

The Managers' recommendation was approved by a resolution of the general meeting."

Some conversation ensued with regard to the general aspects of the case as disclosed in the foregoing proceedings. Attention was also called to Article 18 of the rules prescribing the manner in which alone the resolution of the general meeting could be revised, and to the fact that the procedure therein laid down had not been complied with.

Mr. Lane's motion, on being put to the meeting, was lost

CIVIL FUND OFFICE,
The 31st January 1877.

W. F. McDONELL,
Chairman.

PROMISSORY NOTES.

Lost.

The Government Promissory Loan Note, No. 033633 of 1859-60 of 5½ per cent., dated the 31st May 1859, for Company's Rs. 1,000, now standing in the name of Shapurjee Jehangir, the proprietor by whom it was never endorsed to any other person. Payment of the above note and of interest thereupon has been stopped in the Public Debt Office, Bombay, and application is made to Public Debt Office for the issue of a duplicate note in favour of the proprietor.

SHAPURJEE JEHANGIR,
Girgaum Back Road, No. 178,
Care of Jehangir Bezonjee.

Lost.

The Government Promissory Note No. 041654 of the 4 per cent. of 1842-43, for Rs. 500, originally standing in the name of Kally Podo Chatterjee, and last endorsed to Kanti Chunder Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of Duplicates in favor of the proprietor.

KANTI CHUNDER CHATTERJEE,
Baniatollah, Calcutta.

Lost or Stolen

On the 16th January 1872, one Government Promissory Note, No. 005235 at 4½ per cent., for Rs. 500.

OMES CHUNDER BANNERJEE,
No. 12, Old Post Office Street.

Found!

In Fort William, on the night of 1st March 1877, Currency Notes aggregating in value to Rupees One Hundred and Seventy. Any person having lost same is requested to communicate with the undersigned, furnishing number, date, and amount of each note.

Owner will be called upon to defray expense of this advertisement, which will appear in three successive issues of this Gazette.

C. HELY, *Captain,*
Adjutant, 2-12th Regt., Fort William.
The 2nd March 1877.

Proposed by *Mr. Robert Taylor*,

Seconded by *Mr. T. F. Bignold*, and carried unanimously—

That the Managers' proceedings in admitting the families of the late Messrs. Carpenter, Elliott, Glover, Walton, and R. H. Clifford to the benefits of the Fund be confirmed and the report and accounts be generally adopted.

Proposed by *Hon'ble F. R. Cockerell*,

Seconded by *Mr. R. Taylor*—

That to Article XXV of the rules be added the words "provided that a declaration on oath by not less than two eye witnesses will be considered sufficient proof of marriage in the cases of Messrs. Romesh Chunder Dutt and Beharilal Gupta."

Mr. Bell proposed that the words "*primâ facie*" be substituted for "sufficient." This amendment was seconded by *Mr. O'Kinealy* and carried unanimously.

Proposed by *Mr. T. Bruce Lane*,

Seconded by *Mr. A. T. Maclean*, and carried unanimously—

That the following gentlemen be elected managers for the ensuing year:—*Hon'ble L. S. Jackson, A. Money, Esq.*, C.B., *C. T. Buckland, Esq., J. O'Kinealy, Esq., W. M. Souttar, Esq.*

Mr. Lane drew the attention of the meeting to Mrs. Belli's case, stating that he did so at the request of Mrs. Belli, who had been informed by the Secretary, in his letter of the 12th July 1876, that any individual manager or member of the Service could bring forward her case at a half-yearly meeting. He urged that the disposition of his property made by Mr. Belli, by which his widow was declared by the Managers to have been thrown on the Fund, was an irrevocable trust settlement made in February 1867, at a time when Mr. Belli was 75 years old, had been a widower for some years, and had no children in circumstances which could enable them to make any claim upon the Fund. Presumably he was not at that time likely to marry again; but even assuming that he might do so, he would be then still in the position of a bachelor subscriber, who might make a trust settlement beyond his power to revoke hereafter, and might still marry after doing so without forfeiting his rights in the Fund. Mr. Lane further contended that there was no actual proof of any intention on Mr. Belli's part, when making the trust settlement of February 1867, "to benefit any party at the expense of the Fund," and that it was not right to throw on the widow of a marriage subsequently contracted the onus of proving the negative statement that no such intention existed. Mr. Belli's remarriage three months after he executed the settlement, though it might be considered suspicious, was not actual proof of such intention, and therefore insufficient to justify the extreme measure of refusing a pension to the widow. Looking therefore to the fact that the effect of the trust settlement, at the time when it was made, was not to "throw the support, entire or partial," of a single person on the Fund, that Mr. Belli had, as subscriber to the Fund, paid up more than Rs. 50,000, and that Mrs. Belli was now in a state of comparative poverty, Mr. Lane proposed that the decision of the half-yearly meeting of January 1876, refusing the application of Mrs. Belli for admission to the Fund under the old rules, should be submitted for the reconsideration of the Service.

Mr. O'Kinealy seconded the motion.

At the request of some of the subscribers present the Secretary then read the note which had formed the basis of the Managers' decision on the case.

"The accounts forwarded by Mrs. Belli show that her husband's property at his death was worth £21,727-6-9, and the income derivable from this property would be sufficient to absolutely exclude his widow and other members of his family from benefits under the old rules. On the 22nd February 1867 Mr. Belli made a settlement in trust for his three children of property now valued at £15,000, the condition of the settlement being that £5,000 was to be secured to each of these children and the balance was to form part of his own estate. A few months later, namely, on the 23rd of May 1867, he was married to his present widow. It would now appear from the papers submitted to the Managers that the property embraced by the deed of settlement is not more than sufficient to provide the sum of £15,000 to the children, and that there is no balance for credit to his own estate to which his widow is heir. The first question therefore to be determined is whether the assignment before Mr. Belli's second marriage of property worth £15,000 to the children of his first wife does or does not defeat the claim of his second wife to fund benefits under the old rules. The rule governing this question will be found in Article 26 of the old rules. Under the second paragraph of that article it is declared that a disposal of his property by a subscriber to the prejudice of the Fund debars his family from benefits if the *subscriber's intention he to benefit any party at the expense of the Fund.* In the present case the date of the settlement was the 22nd of February 1867, and that of his marriage the 23rd May 1867, so that it is far from improbable that at the time of making the settlement Mr. Belli contemplated his second marriage, and in this case his widow would be absolutely precluded from the benefits of the Fund. But even supposing that at the time of making the settlement he had not in contemplation his immediate marriage, Mr. Belli must have well known that if he did remarry the trust then made by him would have the effect of reducing his second wife's income so as to entitle her (other considerations apart) to fund benefits. If therefore a subscriber is presumed to intend the natural result of his acts, Mrs. Belli is now entirely excluded from fund benefits."

The Managers acting on this note held adversely to Mrs. Belli's claim, and submitted their decision to the general meeting of 26th January 1876, with the following report:—

The Managers also submit to this meeting the following statement in connection with the application of Mrs. Belli for pension:—Mr. Belli was a subscriber to the Fund under the old rules, and at the time of his decease, 29th July last, left property worth £21,727, out of which he was bound, under Article 26 of the old rules, to make a proper provision for his wife. That Article is as follows:—

"In case it shall be proved to the conviction of a general meeting of subscribers that a deceased member of this Fund has during his life-time, whether in immediate anticipation of his death or otherwise, made such a disposition of any part of his property, real or personal, as but for this rule would throw the entire or partial support of his widow or offspring upon the Fund, who would not have been so supported by the Fund had such part of his property not been so disposed of, with the intention thereby of benefiting any party at the expense of the Fund, then the widow or offspring of such a member or both shall forfeit all right to any part of the support which would have been claimable if no such disposition had been made.

"It is hereby declared that a general meeting of the latter (*i.e.*, subscribers), duly held according to the rules of the institution, shall have full power to reject the application for aid from the Fund in any instance in which it may appear that a subscriber having property at his death, and having the power to dispose of it, has made no due provision for his family."

The Mangers in administering the affairs of the Fund have invariably considered all private income left by a subscriber at death as available for the support of his family without reference to appropriations by testament or otherwise. In the present case Mr. Belli made such a disposition of his property in his life time, namely, a trust in favour of his children by his first wife, that but for Article 26 his widow would be chargeable on the Fund. Under these circumstances the Managers consider the widow not entitled to the Fund allowance, and they now submit the case to the general meeting, and recommend that Mrs. Belli's application be disallowed.

The Managers' recommendation was approved by a resolution of the general meeting."

Some conversation ensued with regard to the general aspects of the case as disclosed in the foregoing proceedings. Attention was also called to Article 18 of the rules prescribing the manner in which alone the resolution of the general meeting could be revised, and to the fact that the procedure therein laid down had not been complied with.

Mr. Lane's motion, on being put to the meeting, was lost

CIVIL FUND OFFICE,
The 31st January 1877.

W. F. McDONELL,
Chairman.

PROMISSORY NOTES.

Lost.

The Government Promissory Loan Note, No. 033633 of 1859-60 of 5½ per cent., dated the 31st May 1859, for Company's Rs. 1,000, now standing in the name of Shapurjee Jehangir, the proprietor by whom it was never endorsed to any other person. Payment of the above note and of interest thereupon has been stopped in the Public Debt Office, Bombay, and application is made to Public Debt Office for the issue of a duplicate note in favour of the proprietor.

SHAPURJEE JEHANGIR,
Girgaum Back Road, No. 178,
Care of Jehangir Bezonjee.

Lost.

The Government Promissory Note No. 041654 of the 4 per cent. of 1842-43, for Rs. 500, originally standing in the name of Kally Podo Chatterjee, and last endorsed to Kanti Chunder Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of Duplicates in favor of the proprietor.

KANTI CHUNDER CHATTERJEE,
Baniatollah, Calcutta.

Lost or Stolen

On the 16th January 1872, one Government Promissory Note, No. 005235 at 4½ per cent., for Rs. 500.

OMES CHUNDER BANNERJEE,
No. 12, Old Post Office Street.

Found!

In Fort William, on the night of 1st March 1877, Currency Notes aggregating in value to Rupees One Hundred and Seventy. Any person having lost same is requested to communicate with the undersigned, furnishing number, date, and amount of each note.

Owner will be called upon to defray expense of this advertisement, which will appear in three successive issues of this Gazette.

C. HELY, *Captain,*
Adjutant, 2-12th Regt., Fort William.
The 2nd March 1877.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Notice is hereby given that the Sixth Ordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Office of the Managing Agents here, on Thursday, the 5th day of April 1877, at 12 o'clock noon, for the purpose of receiving a Report from the Directors, of electfng Directors and Auditors, and of transacting the ordinary business of the Meeting.

The Transfer Books will be closed from Thursday, the 22nd March, to Wednesday, the 4th April, both days inclusive.

By Order,

BORRODAILE, SCHILLER & Co.,
Managing Agents.

CALCUTTA,
The 1st February 1877.

NOTICE.

We, the undersigned hitherto carrying on business at Cawnpore under the style and title of Mitchell & Co., have by mutual consent dissolved partnership from this date, and the business will be carried on by Mr. Cuthbert Cooke.

W. MITCHELL.
CUTHBERT COOKE.
F. J. MITCHELL.

CAWNPORE,
1st March 1877.

With reference to the above, I have this day established myself as Merchant and Agent at Cawnpore under the title of Cuthbert Cooke & Co.

CUTHBERT COOKE.

CAWNPORE,
1st March 1877.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

PROMISSORY NOTES.

Lost.

The Government Promissory Note No. 041654 of the 4 per cent. of 1842-43, for Rs. 500, originally standing in the name of Kally Podo Chatterjee, and last endorsed to Kanti Chunder Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of Duplicates in favor of the proprietor.

KANTI CHUNDER CHATTERJEE,
Baniatollah, Calcutta.

Lost or Stolen

On the 16th January 1872, one Government Promissory Note, No. 005235 at 4½ per cent., for Rs. 500.

OMES CHUNDER BANNERJEE,
No. 12, Old Post Office Street.

Found!

In Fort William, on the night of 1st March 1877, Currency Notes aggregating in value to Rupees One Hundred and Seventy. Any person having lost same is requested to communicate with the undersigned, furnishing number, date, and amount of each note.

Owner will be called upon to defray expense of this advertisement, which will appear in three successive issues of this Gazette.

C. HELY, *Captain,*
Adjutant, 2-12th Regt., Fort William.
The 2nd March 1877.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Notice is hereby given that the Sixth Ordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Office of the Managing Agents here, on Thursday, the 5th day of April 1877, at 12 o'clock noon, for the purpose of receiving a Report from the Directors, of electfng Directors and Auditors, and of transacting the ordinary business of the Meeting.

The Transfer Books will be closed from Thursday, the 22nd March, to Wednesday, the 4th April, both days inclusive.

By Order,

BORRODAILE, SCHILLER & Co.,
Managing Agents.

CALCUTTA,
The 1st February 1877.

NOTICE.

We, the undersigned hitherto carrying on business at Cawnpore under the style and title of Mitchell & Co., have by mutual consent dissolved partnership from this date, and the business will be carried on by Mr. Cuthbert Cooke.

W. MITCHELL.
CUTHBERT COOKE.
F. J. MITCHELL.

CAWNPORE,
1st March 1877.

With reference to the above, I have this day established myself as Merchant and Agent at Cawnpore under the title of Cuthbert Cooke & Co.

CUTHBERT COOKE.

CAWNPORE,
1st March 1877.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

PROMISSORY NOTES.

Lost.

The Government Promissory Note No. 041654 of the 4 per cent. of 1842-43, for Rs. 500, originally standing in the name of Kally Podo Chatterjee, and last endorsed to Kanti Chunder Chatterjee, the proprietor, by whom it was never endorsed to any other person. Payment of the above Note and the interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of Duplicates in favor of the proprietor.

KANTI CHUNDER CHATTERJEE,
Baniatollah, Calcutta.

Found!

In Fort William, on the night of 1st March 1877, Currency Notes aggregating in value to Rupees One Hundred and Seventy. Any person having lost same is requested to communicate with the undersigned, furnishing number, date and amount of each note.

Owner will be called upon to defray expense of this advertisement; which will appear in three successive issues of this Gazette.

C. HELY, *Captain,*
Adjutant, 2-12th Regt., Fort William.
The 2nd March 1877.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

HINDU FAMILY ANNUITY FUND.

Agreeably to Rule 57, the following resolution passed at the Fifth Annual General Meeting of subscribers held on the 28th January 1877, is published for general information:—

That for meeting the current expenditure of the Fund up to 31st March 1878, the Directors be authorised to draw from the Deposit Account with the Government of India, agreeably to Rule 55, to the extent of Rs. 3,650 provided in the Budget Estimates just passed.

RAMSHUNKER SEN, *Chairman.*
PREONATH DUTT, *Secretary.*

The 22nd March 1877.

NOTICE.

Notice is hereby given that the Sixth Ordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Office of the Managing Agents here, on Thursday, the 5th day of April 1877, at 12 o'clock noon, for the purpose of receiving a Report from the Directors, of electing Directors and Auditors, and of transacting the ordinary business of the Meeting.

The Transfer Books will be closed from Thursday, the 22nd March, to Wednesday, the 4th April, both days inclusive.

By Order,

BORRODAILE, SCHILLER & Co.,
Managing Agents.

CALCUTTA, *The 1st February 1877.*

NOTICE.

We, the undersigned hitherto carrying on business at Cawnpore under the style and title of Mitchell & Co., have by mutual consent dissolved partnership from this date, and the business will be carried on by Mr. Cuthbert Cooke.

W. MITCHELL.
CUTHBERT COOKE.
F. J. MITCHELL.

CAWNPORE, *1st March 1877.*

With reference to the above, I have this day established myself as Merchant and Agent at Cawnpore under the title of Cuthbert Cooke & Co.

CUTHBERT COOKE.

CAWNPORE, *1st March 1877.*

NOTICE.

Pursuant to a decree of the High Court of Judicature at Fort William in Bengal, in its Ordinary Original Civil Jurisdiction, made in Suit No. 232 of 1876 (wherein Albert Birmingham Miller, Official Assignee of the Court for the Relief of Insolvent Debtors at Calcutta, and Assignee of the Estate and Effects of William DeMonte Sinaes, an insolvent, is plaintiff, and Frederick John Fergusson, the Official Trustee of Bengal, is defendant), and dated the 30th day of November 1876, the creditors of the late firm of Messrs. Joseph Barretto and Sons, of the Town of Calcutta, Merchants and Agents, who have executed a certain Trust Deed for the benefit of creditors, dated the 10th day of March 1827, and expressed to be made between Luis Joseph Barretto and Edward Brightman, surviving members of the said firm of Messrs. Joseph Barretto and Sons, of the 1st part, John Palmer, William Amslie, George Ballard, William Melville and Robert Browne, of the 2nd part, and the several persons, creditors of the said Luis Joseph Barretto and Edward Brightman who, by themselves or their respective Attorneys, should execute the said Indenture of the 3rd part, and all other persons claiming to be interested in the said Trust Deed are, on or before Saturday, the 28th day of July 1877, to send to the Office of the Registrar

of this Court, in its Original Side, their names, addresses, and descriptions, the full particulars of their claims, a statement of their accounts and the nature of the securities (if any) held by them, or in default thereof, they will be peremptorily excluded from the benefit of the said decree.

Every creditor holding any security may produce or transmit the same to the Registrar with particulars of his claim, or shall produce the same before the Judge for the time being exercising Original Jurisdiction in the Court House on Saturday, the 11th day of August 1877 at 11 of the clock in the forenoon, being the time appointed for adjudicating on the claims.

DIGNAM AND ROBINSON, *Plaintiff's Attorneys.* } R. BELCHAMBERS, *Registrar.*

The 16th March 1877.

Goods of HENRY OATTS, deceased.

STATUTORY NOTICE TO CREDITORS.—Pursuant to "The Trustees and Mortgagees Powers' Act, 1866," notice is hereby given that all creditors and other persons having claims against the estate of the deceased, late of Nohatta, Jessore, Indigo Planter, who died on the 18th May 1876, and Probate of whose Will was granted to Mrs. Anne Oatts, his widow, and sole Executrix, on the 13th June 1876, by the High Court, Calcutta, are required to send in writing the particulars of their claims to the undersigned on or before the 23rd day of April 1877, after which date the Executrix will distribute the assets of the estate of the deceased amongst the parties entitled thereto, having regard to the claims of which she has then had notice. And notice is hereby further given that the said Executrix will not be liable for the assets or any part thereof so distributed, to any person of whose claim she shall not have had notice at the time of such distribution. Dated this 23rd day of January 1877.

SANDERSON & Co.,
Attorneys for the said Executrix.

Estate—THOMAS ACKROYD, deceased.

STATUTORY NOTICE TO CREDITORS.—Notice is hereby given that all Creditors and other persons having any claims against the Estate of the above-named deceased, late Manager of the Coochela Tea Company, Limited, at Hylakandy, Cachar, are hereby required to send, in writing, the particulars thereof to the undersigned on or before the 20th day of March 1877, after which date the undersigned will distribute the assets of the Estate of the said deceased amongst the parties entitled thereto, having regard to the claims of which he has then had notice; and notice is hereby further given that the undersigned will not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

Dated this 18th day of December 1876.

J. M. REID,
Administrator to the Estate of the deceased.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

UNCOVENANTED SERVICE FAMILY PENSION FUND.

Result of Votes received on the questions submitted in Circulars No. 4 and No. 5, dated 18th December 1876.

SUBJECT.	For	Against
CIRCULAR No. 4.		
I.—Addition of Rules 45a and 45b, for granting proportionate pensions in certain cases as proposed in paras. 5 to 8	562	42
II.—Amendment of Rule 33, allowing increase of provision for sons, from Rs. 80 to Rs. 100, as proposed in paragraph 12	573	25
III.—Amendment of Rules 54 and 55, to ensure a more permanent reduction of subscriptions from interest on Reserve Fund and less variable rates of reduction from the divisible surplus, as proposed in paras. 13 to 16	576	15
IV.—Addition of Rule 45c and adoption of table to provide for subscriptions entirely ceasing after 55 years of age ...	570	27
CIRCULAR No. 5:		
To remit and refund the commuted overpayment of Rs. 2,208 made by the late Mr. H. Woodrow	681	18

By Order of the Directors,

W. H. RYLAND,
Secretary.

CALCUTTA;
UNCOVENANTED SERVICE FAMILY PENSION FUND OFFICE,
The 24th March 1877.

NOTICE.

Notice is hereby given that the Sixth Ordinary General Meeting of the Shareholders of the Calcutta Jute Mills Company, Limited, will be held at the Office of the Managing Agents here, on Thursday, the 5th day of April 1877, at 12 o'clock noon, for the purpose of receiving a Report from the Directors, of electing Directors and Auditors, and of transacting the ordinary business of the Meeting.

The Transfer Books will be closed from Thursday, the 22nd March, to Wednesday, the 4th April, both days inclusive.

By Order,

BORRODAILE, SCHILLER & Co.,
Managing Agents.

CALCUTTA,
The 1st February 1877.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

NOTICE.

Pursuant to a decree of the High Court of Judicature at Fort William in Bengal, in its Ordinary Original Civil Jurisdiction, made in Suit No. 232 of 1876 (wherein Albert Birmingham Miller, Official Assignee of the Court for the Relief of Insolvent Debtors at Calcutta, and Assignee of the Estate and Effects of William DeMonte Sinaes, an insolvent, is plaintiff, and Frederick John Fergusson, the Official Trustee of Bengal, is defendant), and dated the 30th day of November 1876, the creditors of the late firm of Messrs. Joseph Barretto and Sons, of the Town of Calcutta, Merchants and Agents, who have executed a certain Trust Deed for the benefit of creditors, dated the 10th day of March 1827, and expressed to be made between Luis Joseph Barretto and Edward Brightman, surviving members

of the said firm of Messrs. Joseph Barretto and Sons, of the 1st part, John Palmer, William Amslie, George Ballard, William Melville and Robert Browne, of the 2nd part, and the several persons, creditors of the said Luis Joseph Barretto and Edward Brightman who, by themselves or their respective Attorneys, should execute the said Indenture of the 3rd part, and all other persons claiming to be interested in the said Trust Deed are, on or before Saturday, the 28th day of July 1877, to send to the Office of the Registrar of this Court, in its Original Side, their names, addresses, and descriptions, the full particulars of their claims, a statement of their accounts and the nature of the securities (if any) held by them, or in default thereof, they will be peremptorily excluded from the benefit of the said decree.

Every creditor holding any security may produce or transmit the same to the Registrar with particulars of his claim, or shall produce the same before the Judge for the time being exercising Original Jurisdiction in the Court House on Saturday, the 11th day of August 1877 at 11 of the clock in the forenoon, being the time appointed for adjudicating on the claims.

DIGNAM AND ROBINSON, *Plaintiff's Attorneys.* } R. BELCHAMBERS, *Registrar.*

The 16th March 1877.

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 III.

Advertisements and Notices by Private Individuals and Corporations.

Estate—THOMAS ACKROYD, deceased.

STATUTORY NOTICE TO CREDITORS.—Notice is hereby given that all Creditors and other persons having any claims against the Estate of the above-named deceased, late Manager of the Coochela Tea Company, Limited, at Hylakandy, Cachar, are hereby required to send, in writing, the particulars thereof to the undersigned on or before the 20th day of March 1877, after which date the undersigned will distribute the assets of the Estate of the said deceased amongst the parties entitled thereto, having regard to the claims of which he has then had notice; and notice is hereby further given that the undersigned will not be liable for the assets or any part thereof so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

Dated this 18th day of December 1876.

J. M. REID,
Administrator to the Estate of the deceased.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

NOTICE.

Pursuant to a decree of the High Court of Judicature at Fort William in Bengal, in its Ordinary Original Civil Jurisdiction, made in Suit No. 232 of 1876 (wherein Albert Birmingham Miller, Official Assignee of the Court for the Relief of Insolvent Debtors at Calcutta, and Assignee of the Estate and Effects of William DeMonte Sinaes, an insolvent, is plaintiff, and Frederick John Fergusson, the Official Trustee of Bengal, is defendant), and dated the 30th day of November 1876, the creditors of the late firm of Messrs. Joseph Barretto and Sons, of the Town of Calcutta, Merchants and Agents, who have executed a certain Trust Deed for the benefit of creditors, dated the 10th day of March 1827, and expressed to be made between Luis Joseph Barretto and Edward Brightman, surviving members of the said firm of Messrs. Joseph Barretto and Sons, of the 1st part, John Palmer, William Amslie, George Ballard, William Melville and Robert Browne, of the 2nd part, and the several persons, creditors of the said Luis Joseph Barretto and Edward Brightman who, by themselves or their respective Attorneys, should execute the said Indenture of the 3rd part, and all other persons claiming to be interested in the said Trust Deed are, on or before Saturday, the 28th day of July 1877, to send to the Office of the Registrar of this Court, in its Original Side, their names, addresses, and descriptions, the full particulars of their claims, a statement of their accounts and the nature of the securities (if any) held by them, or in default thereof, they will be peremptorily excluded from the benefit of the said decree.

Every creditor holding any security may produce or transmit the same to the Registrar with particulars of his claim, or shall produce the same before the Judge for the time being exercising Original Jurisdiction in the Court House on Saturday, the 11th day of August 1877 at 11 of the clock in the forenoon, being the time appointed for adjudicating on the claims.

DIGNAM AND ROBINSON, *Plaintiff's Attorneys.* } R. BELCHAMBERS, *Registrar.*

The 16th March 1877.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 21, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

Goods of HENRY OATTS, deceased.

STATUTORY NOTICE TO CREDITORS.—Pursuant to "The Trustees and Mortgagees Powers' Act, 1866," notice is hereby given that all creditors and other persons having claims against the estate of the deceased, late of **Nohatta**, Jessore, Indigo Planter, who died on the 18th May 1876, and Probate of whose Will was granted to Mrs. Anne Oatts, his widow, and sole Executrix, on the 13th June 1876, by the High Court, Calcutta, are required to send in writing the particulars of their claims to the undersigned on or before the 23rd day of April 1877, after which date the Executrix will distribute the assets of the estate of the deceased amongst the parties entitled thereto, having regard to the claims of which she has then had notice. And notice is hereby further given that the said Executrix will not be liable for the assets or any part thereof so distributed, to any person of whose claim she shall not have had notice at the time of such distribution. Dated this 23rd day of January 1877.

SANDERSON & Co.,
Attorneys for the said Executrix.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 21, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

Goods of HENRY OATTS, deceased.

STATUTORY NOTICE TO CREDITORS.—Pursuant to "The Trustees and Mortgagees Powers' Act, 1866," notice is hereby given that all creditors and other persons having claims against the estate of the deceased, late of Nohatta, Jessore, Indigo Planter, who died on the 18th May 1876, and Probate of whose Will was granted to Mrs. Anne Oatts, his widow, and sole Executrix, on the 18th June 1876, by the High Court, Calcutta, are required to send in writing the particulars of their claims to the undersigned on or before the 23rd day of April 1877, after which date the Executrix will distribute the assets of the estate of the deceased amongst the parties entitled thereto, having regard to the claims of which she has then had notice. And notice is hereby further given that the said Executrix will not be liable for the assets or any part thereof so distributed, to any person of whose claim she shall not have had notice at the time of such distribution. Dated this 23rd day of January 1877.

SANDERSON & Co.,
Attorneys for the said Executrix.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 5, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

The Rámáyana of Tulsi Dás. Book I.
Translated from the original Hindi: by F. S. Growse, M.A., Oxon.—*Price Rs. 3, including postage.*

GOVERNMENT PRESS, ALLAHABAD.

NOTICE.

The interest and responsibility of Mr. J. R. Bullen-Smith, C.S.I., in our Firm ceased on the 30th ultimo, and we have admitted Mr. Alexander Wilson a Partner in our Firm from this date.

The continuing Partners are—Messrs. John Stewart, James Jardine Paterson, Thomas Henderson Wordie, John Johnstone Jardine Keswick, and Alexander Wilson.

JARDINE, SKINNER & CO.

CALCUTTA,
The 1st May 1877.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 12, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

The Rámáyana of Tulsi Dás. Book I.

Translated from the original Hindi: by F. S. Growse, M.A., Oxon.—*Price Rs. 3, including postage.*

GOVERNMENT PRESS, ALLAHABAD.

BENGAL CIVIL FUND.

NOTICE.

The Half-yearly General Meeting of Subscribers will be held at the Town Hall on Wednesday, the 25th July next, at 4-30 P.M.

By order of the Managers,
COLMAN MACAULAY,
Secretary.

BENGAL CIVIL FUND,
The 2nd May 1877.

PROMISSORY NOTE.

Lost.

The Government Promissory Note No. 034182 of the four per cent. of 1842-43, for Rs. 1,000, originally standing in the names of Jewanjee Bomonjee Mehta, Hormusjee Pestonjee Mallegaumwalla, and Fakeerjee Limjee Oomrigur, the proprietors, by whom it was never endorsed to any other person. Payment of the above Note and the Interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of Duplicates in favour of the surviving proprietors Hormusjee Pestonjee Mallegaumwalla and Fakeerjee Limjee Oomrigur.

HORMUSJEE PESTONJEE MALLEGAUMWALLA.
FAKEERJEE LIMJEE OOMRIGUR.

Care of Jamsetjee Cursetjee Cama, Esq., Solicitor, High Court, No. 2, Meadow Street, Bombay.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 19, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

PROMISSORY NOTES.

Lost.

The Government Promissory Note No. 034182 of the four per cent. of 1842-43, for Rs. 1,000, originally standing in the names of Jewanjee Pomanjee Mehta, Hormusjee Pestonjee Mallegaumwalla, and Fakeerjee Limjee Oomrigur, the proprietors, by whom it was never endorsed to any other person. Payment of the above Note and the Interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of Duplicates in favour of the surviving proprietors Hormusjee Pestonjee Mallegaumwalla and Fakeerjee Limjee Oomrigur.

HORMUSJEE PESTONJEE MALLEGAUMWALLA.
FAKEERJEE LIMJEE OOMRIGUR.

Care of Jamsetjee Cursetjee Cama, Esq., Solicitor, High Court, No. 2, Meadow Street, Bombay.

Lost.

Coupon No. 00841 for Rs. 65, being [illegible] interest on Government Promissory Note, No. 10369 of 1859-60 for Rs. 2,000.

MAHOMED HOSAIN ESPAHANEE.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, MAY 26, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

BENGAL CIVIL FUND.

NOTICE.

The Half-yearly General Meeting of Subscribers will be held at the Town Hall on Monday, the 30th July next, at 4-30 P. M.

The Managers will propose the following amendment to section 2, article 8 of the Rules :—

"Before 'Rs. 12,500' insert 'Rs. 18,750 or to,' and for 'in the former case one-half and in the latter one quarter' substitute 'in the first case three quarters, in the second one-half and in the third one quarter.'"

In the event of the above amendment being carried, the following resolution will be moved :—

"The Managers are authorized to give the amendment now adopted retrospective effect from 1st January 1877, and to allow to all subscribers who have retired from the service on or since that date the further option thus provided."

By order of the Managers,
COLMAN MACAULAY,
Secretary.

BENGAL CIVIL FUND,
The 19th May 1877.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

PROMISSORY NOTES.

Lost.

The Government Promissory Note No. 034182 of the four per cent. of 1842-43, for Rs. 1,000, originally standing in the names of Jewanjee Bomonjee Mehta, Hormusjee Pestonjee Mallegaumwalla, and Fakeerjee Limjee Oomrigur, the proprietors, by whom it was never endorsed to any other person. Payment of the above Note and the Interest thereupon have been stopped at the Public Debt Office, Bank of Bengal, and application is about to be made for the issue of Duplicates in favour of the surviving proprietors Hormusjee Pestonjee Mallegaumwalla and Fakeerjee Limjee Oomrigur.

HORMUSJEE PESTONJEE MALLEGAUMWALLA.
FAKEERJEE LIMJEE OOMRIGUR.

Care of Jamsetjee Cursetjee Cama, Esq., Solicitor, High Court, No. 2, Meadow Street, Bombay.

Lost.

Coupon No. 00841 for Rs. 55, being 35½ years' interest on Government Promissory Note No. 10369 of 1859-60 for Rs. 2,000.

MAHOMED HOSAIN ESPAHANEE.

Lost.

Lost at Sealkot Cantonment, on or about the 11th instant, a 4½ per cent. Government Promissory Note, No. $\frac{0}{0}\frac{5}{0}\frac{3}{6}\frac{4}{3}\frac{3}{9}\frac{1}{8}$ of 1872, for Rs. 500.

TAKURDOSS BUGBANDOSS,
Bankers, Sealkot Cantonment.

SEALKOT,
23rd April 1877.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 2, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

PROMISSORY NOTES.

Lost.

Lost at Sealkot Cantonment, on or about the 11th instant, a 4½ per cent. Government Promissory Note, No. $\frac{053431}{006398}$ of 1872, for Rs. 500.

TAKURDOSS BUGBANDOSS,
Bankers, Sealkot Cantonment.

SEALKOT,
23rd April 1877.

Lost.

Coupon No. 00841 for Rs. 55, being 35½ years' interest on Government Promissory Note No. 10369 of 1859-60 for Rs. 2,000.

MAHOMED HOSAIN ESPAHANEE.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JUNE 9, 1877. { Register No. 33.

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

PART III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

OUDH FOREST DEPARTMENT.

BYRAMGHAT DEPÔT.

On the Oudh and Rohilkhund Railway.

From this date the prices of Sál beams and scantlings supplied from this Depôt will be as follows:—

BEAMS—

21 feet length	@	Rs.	2	10	0	per cubic foot.
22 „	@	„	2	12	0	„
23 „	@	„	2	14	0	„
24 „	@	„	3	0	0	„

Above the lengths given two annas per foot run will be charged. Any inches over the foot will be charged as a foot.

SCANTLINGS—

from 12 to 20 feet	@	Rs.	2	8	0	per cubic foot.
under 12 & over 7 „	@	„	2	4	0	„
under 7 „	@	„	2	0	0	„

The above prices are for ordinary building purposes.

For *planking, sleepers, &c.*, special rates will be fixed by agreement.

The Department will still take orders for buildings all over @ Rs. 2-4-0 per cubic foot, provided the scantlings are taken in fair proportion.

SECOND AND THIRD CLASS TIMBER will be sold, and price fixed by agreement.

AUCTION SALES will be held from time to time to clear off stock.

For further particulars apply to the Officer in charge.

By order of the Conservator, Oudh Forests,

SIMPSON HILLIER,
Assistant Conservator of Forests.

The 1st June 1877.

Central Provinces Gazetteer—Edition of 1870 in one Vol.

A limited number of the above work, strongly bound in cloth, octavo size, for sale at Rs. 12 per Vol., exclusive of postage charge. Apply to Messrs. Thacker, Spink & Co., Calcutta; Thacker, Vining & Co., Bombay; or to Superintendent, Chief Commissioner's Office, Nagpur.

PROMISSORY NOTE.

Lost.

Lost at Sealkot Cantonment, on or about the 11th instant, a 4½ per cent. Government Promissory Note, No. 033351 of 1872, for Rs. 500.

TAKURDOSS BUGHANDOSS,
Bankers, Sealkot Cantonment.

SEALKOT,
23rd April 1877.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, 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 III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Messrs. Cairns Deas and John Gillespie have been admitted as Partners into this Firm as from 1st November 1876.

BURN & Co.

PROMISSORY NOTE.

Mislaid.

Mislaid in the Almorah Senior Assistant Commissioner's Office 5½ per cent. Government Promissory Note No. 045235, dated 3rd May 1859, for Rs. 1,800, standing in the name of Hurruck Sing, Pensioned Soobahdar.

H. G. BATTEN,
Treasury Officer.

ALMORAH TREASURY,
The 16th June 1877.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, 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 III.

Advertisements and Notices by Private Individuals and Corporations.

NOTICE.

Messrs. Cairns Deas and John Gillespie have been admitted as Partners into this Firm as from 1st November 1876.

BURN & Co.

PROMISSORY NOTE.

Mislaid.

Mislaid in the Almorah Senior Assistant Commissioner's Office 5½ per cent. Government Promissory Note No. 045235, dated 3rd May 1859, for Rs. 1,800, standing in the name of Hurruck Sing, Pensioned Soobahdar.

H. G. BATTEN,
Treasury Officer.

ALMORAH TREASURY,
The 16th June 1877.

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 6, 1877. { Register No. 33.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th December 1876, and is hereby promulgated for general information:—

Act No. XIX of 1876.

An Act for the better control of public dramatic performances.

Preamble.

WHEREAS it is expedient to empower the Government to prohibit public dramatic performances, which are scandalous, defamatory, seditious or obscene; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Dramatic Performances Act, 1876:"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force at once.

"Magistrate" defined

2. In this Act "Magistrate" means, in the Presidency Towns a Magistrate of Police, and elsewhere the Magistrate of the District.

Power to prohibit certain dramatic performances.

3. Whenever the Local Government is of opinion that any play, pantomime, or other drama performed or about to be performed in a public place is—

(*a*) of a scandalous or defamatory nature, or

(*b*) likely to excite feelings of disaffection to the Government established by law in British India, or

(*c*) likely to deprave and corrupt persons present at the performance,

the Local Government, or outside the Presidency Towns and Rangoon, the Local Government or such Magistrate as it may empower in this behalf, may by order prohibit the performance.

Explanation.—Any building or enclosure to which the public are admitted to witness a performance on payment of money, shall be deemed a "public place" within the meaning of this section.

Power to serve order of prohibition.

4. A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room or place in which such performance is intended to take place; and any person on whom such copy is served, and who does, or willingly permits, any act in disobedience to such order, shall be punished on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Penalty for disobeying order.

Power to notify order.

5. Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in or to witness the performance so prohibited.

Penalty for disobeying prohibition.

6. Whoever, after the notification of any such order—

(*a*) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or

(*b*) in any manner assists in conducting any such performance, or

(*c*) is in wilful disobedience to such order present as a spectator, during the whole or any part of any such performance, or

(*d*) being the owner or occupier, or having the use of, any house, room or place, opens, keeps or uses the same for any such performance, or permits the same to be opened, kept or used for any such performance,

shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Power to call for information.

7. For the purpose of ascertaining the character of any intended public dramatic performance, the Local Government or such officer as it may specially empower in this behalf, may apply to the author, proprietor or printer of the drama about to be performed, or to the owner or occupier of the place in which it is intended to be performed, for such information as the Local Government or such officer thinks necessary.

Every person so applied to shall be bound to furnish the same to the best of his ability, and whoever contravenes this section shall be deemed to have committed an offence under section 176 of the Indian Penal Code.

Power to grant warrant to Police to enter and arrest and seize.

8. If any Magistrate has reason to believe that any house, room or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses and other articles found therein and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance.

Saving of prosecutions under Penal Code, sections 124A and 294.

9. No conviction under this Act shall bar a prosecution under section 124A or section 294 of the Indian Penal Code.

Power to prohibit dramatic performances in any local area, except under license.

10. Whenever it appears to the Local Government that the provisions of this section are required in any local area, it may, with the sanction of the Governor General in Council, declare, by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification.

On and after that day, the Local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such Local Government, or such officer as it may specially empower in this behalf.

The Local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area, unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the Local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does, or willingly permits, any act in disobedience to such order, he shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Powers exerciseable by Governor General.

11. The powers conferred by this Act on the Local Government may be exercised also by the Governor General in Council.

Exclusion of performances at religious festivals.

12. Nothing in this Act applies to any *jātras* or performances of a like kind at religious festivals.

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

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 16th December 1876, and is hereby promulgated for general information:—

ACT No. XX OF 1876.

An Act to give better effect to certain agreements with the Thákur of Bhaunagar.

Preamble.

WHEREAS the villages mentioned in the Schedule hereto annexed (hereinafter called the Scheduled villages) are the property of the Thákur of Bhaunagar, and were by the Treaty of Bassein dated the thirty-first day of December 1802, separated from the Native State or States known as the territory of Káthiáwár and ceded to the British Government:

And whereas, by Regulation VI of 1816 of the Governor of Bombay in Council, the Regulations in force throughout the Presidency of Bombay were extended to the said villages, and such villages thereby became subject to the jurisdiction of the Revenue, Civil and Criminal Courts established in that Presidency:

And whereas the said Thákur of Bhaunagar is also the proprietor of divers villages, forming part of the said Territory, and hereinafter called the Káthiáwár villages:

And whereas the British Government have exercised certain powers of Government over the said territory, but such territory has never been treated as being British territory, nor as having been vested in the East India Company, nor in Her Majesty the Queen of Great Britain and Ireland and Empress of India, and the said Káthiáwár villages have consequently never been subject to the laws in force in the Presidency of Bombay:

And whereas in the year 1820 the British Government established a Political Agency for the said territory of Káthiáwár:

And whereas in the year 1857 the said Thákur was, by an order of the British Government, invested in respect of the same villages with certain powers of sovereignty limited by and subject to the rules laid down for the government and conduct of the said Káthiáwár Political Agency:

And whereas for divers reasons of State affecting the welfare of British India, the British Government became desirous of ceding to the Thákur of Bhaunagar the Scheduled villages, to be held by him on the same conditions as those on which he holds the Káthiáwár villages, and for that purpose certain agreements were made and certain notifications published which were intended to operate as a cession of the Scheduled villages:

And whereas on the twenty-ninth day of January 1866, the Governor of Bombay in Council published a notification declaring that, in accordance with the agreement last hereinbefore recited, the Scheduled villages were from and after the first day of February 1866, removed from the jurisdiction of the Revenue, Civil and Criminal Courts of the Bombay Presidency and transferred to the supervision of the said Political Agency in Káthiáwár on the same conditions as to jurisdiction as the said Káthiáwár villages:

And whereas the intention of the said agreements and notifications was that the villages comprised therein should be ceded to and vested in the Thákur of Bhaunagar, to be held by him on the terms on which he holds the Káthiáwár villages:

And whereas ever since the first day of February 1866, the Scheduled villages have been governed according to the intention of the said agreements, and acts of executive authority have been done, proceedings taken and decrees and sentences passed by the Thákur of Bhaunagar and his officers, and by the officers of the said Political Agency, and by the Courts of Justice appointed to exercise jurisdiction within the limits of the said Political Agency:

And whereas it now appears that such agreements and notifications were not worded so as to express their true intention, and that the Scheduled villages did not thereby cease to be British territory, or to be subject to the laws in force in the Presidency of Bombay:

And whereas by a notification, dated the fifth day of December 1876, after reciting to the effect above recited, and reciting that the Secretary of State for India, had on behalf of Her Majesty the Queen of Great Britain and Empress of India, given his sanction to the cession intended to be thereby effected, the Governor General in Council, with the sanction aforesaid, did thereby cede and grant to the said Thákur of Bhaunagar, his heirs and successors, the said Scheduled villages, to hold the same unto the said Thákur his heirs and successors, on the terms and subject to the rules on and subject to which he holds the said Káthiáwár villages: but it was thereby provided that, in case the said Thákur his heirs or successors should commit, any acts of misgovernment which, in the opinion of the Governor General in Council, rendered it inexpedient that the said Thákur his heirs and successors should continue to hold the said Scheduled villages, the Governor General in Council might resume the villages thereby ceded and reannex the same to Her Majesty's dominions:

And whereas it is expedient (so far as relates to any past or future proceedings in British India) to ratify the aforesaid acts, proceedings and sentences of the Thákur of Bhaunagar and the officers and Courts aforesaid, and to indemnify the said Thákur and officers against any liability in respect thereof, and to provide that no title to property shall be disturbed by any act, proceeding or sentence of any other authority; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Bhaunagar Act, 1876:"

Local extent.

It extends only to British India;

Commencement.

And it shall come into force at once.

Scheduled villages excluded from jurisdiction of Bombay Courts.

2. The said Scheduled villages shall be deemed to have been, on and after the said first day of February 1866, excluded from the jurisdiction of the Revenue, Civil and Criminal Courts of the Bombay Presidency.

Validation of acts done after 1st February 1866.

3. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed subsequently to the first day of February 1866, and which would have been valid if the Scheduled villages had been ceded according to the intention of the said agreements and notification, shall be as valid and operative in British India as if such cession had actually been effected;

Bar of suits.

and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that the Scheduled villages did not cease to be British territory on the first day of February 1866.

Saving of personal jurisdiction of Courts of British India.

4. Nothing in this Act shall affect any jurisdiction which any Court of Justice in British India may for the time being be entitled to exercise over persons resident or being beyond the limits of British India.

SCHEDULE.

Bhaunagar Taluqa.

Bhaunagar.	Málanka.	Háthab.	
Wadwá.	Bhutesar.	Khadsuliu.	
Ruhá.	Bhumlí.	Bhadbadiu.	
Akwárá.	Ratanpur Juná.	Alápur.	
Adhiwárá.	Ratanpur Nuwá.	Thalsar.	
Tarsamía.	Koliak.	Lákhanka.	
Jaspará.	Kobri.	Sultánpur.	
Phulsar.	Bhurí.	Wávri.	
Karmadiu.	Bhundariu.	Rámpura.	
Surká.	Churi.	Bhenswari.	} *waste.*
Tarak Pálrí.	Sánkrásar.	Jhánjrá.	} *waste.*
Nárí.	Bhádole.		
Budhel.	Nágdhaníba.		

Sihór Taluqa.

Sihór.	Ratanpur *near* Táná.	Rájpura.
Usrad.	Wadiu.	Khakhriu.
Agiáli.	Waláwad.	Kardej.
Táná.	Megwadar.	Surká.
Bordi.	Ghángli.	Jámbálu.
Kájáwadar.	Neæra.	Kuchotiu (*waste*).

Chirora *(waste)*.

New Villages.

Gundi.	Trápaj.	Píthalpur.
Mándwá.	Bapárá.	Kháutarí.
Sosiá.	Pánchpíplá.	Deogána.
Paniálí.	Rájpura.	Thordí.

Khadarpur Mitiverdi.

Inám Villages.

Wartej.	Sámpura.	Sodwadra.
Sidhsar.	Phariádku.	Sedhawadar.
	Kálví (*waste*).	

DHANDUKA PARGANA.

Pátna Taluqa.

Pátna.	Kánutalao.	Dantretía.
Bharbír.	Ratanwau.	Samandiála.
Chakampur.	Keriá.	Kariání.
Sarwui.	Jamrála.	Láthídhar.
Jhinjhawadar.	Ujalwau.	Weláwadar.
Pátí.	Jotingra.	Vírdhi *or* Rájghar.
Keria *near* Pátí.	Shírthali.	Sajelí.
Bhámbhan.	Dhíkwáli.	Oteriá.
Samandeála, 2.	Wajelí.	Sándherá.
Tájpur.	Lundrá.	Nágalpur.
	Málpur.	

RANPUR PARGANA.

Botád Taluqa.

Botád.	Dánkniá.	Kániád.
Hardar.	Khankói.	Rájpura.
Sírwániu.	Turkhá.	Juriá.

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

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th December 1876, and is hereby promulgated for general information :—

ACT No. XXI OF 1876.

An Act to amend the Land Improvement Act, 1871.

WHEREAS doubts have arisen as to the effect of certain provisions of the Land Improvement Act, 1871, and it is expedient, with a view to removing such doubts, to amend the said Act; It is hereby enacted as follows :— Preamble.

1. This Act extends to the whole of British India : Local extent.

It shall be read with, and taken as part of, the said Land Improvement Act, 1871, and it shall be deemed to have come into force on the twenty-eighth day of September 1871, being the day on which the said Act came into force. Construction. Commencement.

2. The definition of "improvement" in section one of the said Act includes works for the storage, supply or distribution of water for the use of men and cattle employed in agriculture. Definition of "improvement" explained.

3. To section fourteen of the said Act the following clause shall be added (namely)— Amendment of Act XXVI of 1871, section 14.

"(*e*). If such security consists of a charge upon land, the position, extent and boundaries of such land."

4. Section fifteen of the said Act is repealed, and instead thereof the following section shall be substituted :— Amendment of Act XXVI of 1871, section 15.

"15. All sums advanced under this Act shall, when they become due, be recoverable in all or any of the following ways :—

(*a*) from the borrower, as if they were arrears of land-revenue due from him :

(*b*) from the surety (if any), as if they were arrears of land-revenue due from him :

(*c*) out of the land to be improved, as if they were arrears of land-revenue due on account of such land :

(*d*) out of the property comprised in the collateral security (if any), according to the terms of such security :

Provided—

(*e*) that if the borrower is the landlord, any proprietary or cultivating interest which a tenant may have in the land to be improved shall not, unless the tenant has given such interest as collateral security for the advance, be liable to sale for the recovery of such advance :

(*f*) that if the borrower is such a tenant as is mentioned in section seven, the landlord's interest in the land to be improved shall not be liable to sale for the recovery of the advance :

(*g*) and if the advance is recovered from the surety or out of his property, to the exoneration of the borrower or of the land to be improved, the surety shall have the same rights against the borrower and the land to be improved, as the Government had when the advance was due, and may enforce such rights by ordinary process of law."

5. The Local Government may authorize the Collector (as defined in the said Act) to delegate to any officer subordinate to him such of his powers under the said Act as the Local Government may from time to time prescribe. Power to authorize Collector to delegate certain powers.

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

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th December 1876, and is hereby promulgated for general information :—

ACT No. XXII OF 1876.

An Act to provide for the management of the Public Museum at Calcutta.

WHEREAS, by Act No. XVII of 1866, reciting that it was expedient to provide for the establishment of a Public Museum at Calcutta, to be called the Indian Museum, it was enacted that the Governor General in Council should cause to be erected at the expense of the Government of India a suitable building in Calcutta, to be devoted in part to collections illustrative of Indian Archæology and of the several branches of Natural History, in part to the preservation and exhibition of other objects of interest, whether historical, physical or Preamble.

economical, in part to the records and offices of the Geological Survey of India, and in part to the fit accommodation of the Asiatic Society of Bengal and to the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that the Government of India should keep the said building in repair and pay and defray the salaries, allowances and pensions of the officers and servants, and all other expenses connected with the said Museum; and by the Act now in recital certain officials and other persons therein mentioned or referred to, to the number of thirteen, and their successors, were constituted a Body Corporate by the name of the Trustees of the Indian Museum, and the said Trustees were empowered to receive bequests, donations and subscriptions, and to deal with the same in the manner therein mentioned for the purposes of their trusts therein mentioned; and it was also enacted that the said Trustees should have the exclusive possession, occupation and control, for the purposes of such trusts, of the said building, other than those portions thereof which, upon its completion, should be set apart by the said Trustees for the records and offices of the said Geological Survey and for the accommodation of the said Asiatic Society and the reception of their library, manuscripts, maps, coins, busts, pictures, engravings and other property; and it was also enacted that all officers and servants, salaried or otherwise, employed in the care or management of the trust-property, should be appointed, and might be removed or suspended, by the said Trustees, subject to such regulations and conditions as the said Trustees should think proper; and it was also enacted that the Council of the said Asiatic Society should cause the collections belonging to such Society, and illustrative of Indian Archæology and the several branches of Natural History, and all additions that might be made thereto, to be removed to and deposited in the said building at the expense of the Government of India as soon as the same should be completed so far as to be in a condition to receive the said collections, and that an inventory of the articles in such collections should be made by the said Society, one copy whereof was to be signed by the said Trustees and kept by the said Society, and another copy was to be signed by the said Society and kept by the said Trustees, and that the said Society should continue to have the same exclusive property in and control over their said library, manuscripts, maps, coins, busts, pictures and engravings which they then possessed, and that the Council of the said Society should have the exclusive possession, occupation and control, for the purposes of the said Society, of those portions of the said building which should be set apart for the accommodation of the said Society and the reception of their Library and other property thereinbefore mentioned;

And whereas the Government of India has caused the said building to be erected, and the Council of the said Society has caused the said collections belonging to the same Society to be removed to and deposited in the said building at the expense of the Government of India; and an inventory of the articles in such collections has been made by the said Society, one copy whereof has been signed by the said Trustees and delivered to the said Society, and another copy has been signed by the Council of the said Society and delivered to the said Trustees

And whereas the said Trustees have, in pursuance of the said Act, set apart certain portions of the said building for the said records and offices of the Geological Survey of India;

And whereas, in consideration of a sum of one hundred and fifty thousand rupees paid to them by the Government of India, the Council of the said Society has relinquished the exclusive possession, occupation and control secured to them by the said Act, of the portions of the said building which, under the said Act, were to be set apart for the accommodation of the said Society and the reception of their said Library and other property;

And whereas it is expedient to alter the constitution of the said Body Corporate and to amend the law relating to the appointment and salaries of the said officers :

And whereas under the circumstances aforesaid it is expedient to repeal the said Act, and to re-enact it with the modifications hereinafter appearing; It is hereby enacted as follows :—

Preliminary.

1. This Act may be called "The Indian Museum Act, 1876." Short title.

2. Act No. XVII of 1866 (*to provide for the establishment of a Public Museum at Calcutta*) shall be repealed. But all persons nominated under the said Act as Trustees of the Indian Museum, and all officers and servants appointed under the same Act and now holding office, shall be deemed to have been respectively nominated and appointed under this Act. Repeal of Act No. XVII of 1866.

Incorporation of the Trustees.

3. The Trustees of the said Indian Museum shall be— Trustees of the Indian Museum incorporated.

such Secretary to the Government of India as the Governor General in Council from time to time directs in this behalf,

the Accountant General,

five other persons to be nominated by the Governor General of India in Council,

the President of the Asiatic Society of Bengal and four other Members of the Council of the said Society for the time being, to be nominated by the Council of the said Society,

the Superintendent of the Geological Survey of India,

and three other persons to be elected by the Trustees for the time being and appointed under their common seal;

and such Trustees and their successors shall, subject to the provisions hereinafter contained, be and are hereby constituted a Body Corporate by the name of the "Trustees of the Indian Museum," and shall have a common seal, and by such name shall have perpetual succession; and all the powers of the said Corporation may be exercised so long and so often as there shall exist seven Members thereof.

4. The persons for the time being holding the offices respectively mentioned in section three shall be *ex officio* Members of the said Body Corporate, *Ex officio* Members.

and shall cease to be such Members respectively upon ceasing to hold the said offices respectively.

Provided that, whenever the said Secretary to the Government of India, Accountant General or Superintendent of the Geological Survey of India is also the President of the said Society, the Council of the said Society may nominate any other person, being a Member of the said Society, to be a Trustee under this Act so long as such Presidency is held by the said Secretary, Accountant General or Superintendent.

5. If any of the said Trustees for the time being dies or is absent from India for more than twelve consecutive months, or desires to be discharged, or refuses or becomes incapable to act, or not having been an *ex officio* Member of the said Body Corporate becomes such, or if any of the Trustees to be nominated by the Council of the said Society ceases to be a Member of such Council, then and in every such case the authority which appoints the Trustee so dying, being absent from India, desiring to be discharged, refusing or becoming incapable to act, or becoming an *ex officio* Member as aforesaid, or ceasing to be such Member of Council as aforesaid, may appoint a new Trustee in his place according to the provisions of section three,

Power to appoint new Trustees.

and every Trustee so appointed shall thereupon become and be a Member of the said Body Corporate as fully and effectually as if he had been hereby constituted a Trustee.

Powers of the Trustees.

6. It shall be lawful for the said Trustees (*a*) to receive bequests, donations and subscriptions of land, buildings, money and any such objects of interest as aforesaid, and (*b*) to hold the same and to lay out such money for the maintenance, improvement and enlargement of the collections deposited in, presented to, or purchased for, the said Indian Museum, and otherwise for the purposes of the same Museum;

Trustees empowered to receive bequests, donations and subscriptions.

and all such collections shall become the property of the said Trustees for the purposes of their trusts herein mentioned;

and the said Trustees shall have the exclusive possession, occupation and control, for the purposes of such trusts, of the whole of the said building, other than those portions thereof which have been set apart by the said Trustees for the records and offices of the Geological Survey of India.

7. The said Trustees may from time to time make bye-laws consistent with this Act—

Power to Trustees to make bye-laws.

(*a*) for the management of the said Museum;

(*b*) for the summoning, holding and adjournment of General and Special Meetings of the said Trustees;

(*c*) for securing their attendance at such meetings;

(*d*) for the provision and keeping of minute-books and account-books;

(*e*) for the compiling of catalogues, and

(*f*) for all other purposes necessary for the execution of their trusts.

8. Subject to such regulations and conditions as the Trustees think fit, they shall appoint, and may remove or suspend, all officers and servants, salaried or otherwise, employed in the care or management of the trust-property: provided—

Power to Trustees to appoint officers and servants.

(*a*) that no officer be appointed without the approval of the Governor General in Council if such officer be, at the date of his appointment, in India, or without the approval of the Secretary of State for India in Council if such officer be not then in India;

(*b*) that no new office be created, and no salaries of officers be altered, without the previous sanction of the Governor General in Council.

9. The said Trustees may from time to time order any duplicates of printed books, medals, coins, specimens of Natural History or other curiosities deposited in the Indian Museum to be exchanged for manuscripts, books or other objects of interest, or direct any such duplicates to be sold and the money to arise from such sale to be laid out in the purchase of manuscripts, books, maps, medals, coins, specimens of Natural History or other curiosities that may be proper for the said Museum.

Trustees may exchange or sell duplicates.

10. At all meetings of the said Trustees three shall be a quorum for the transaction of business and for the exercise of any of the powers conferred upon them by this Act.

Quorum.

Duties of the Trustees.

11. The said Trustees shall furnish to the Government of India, on or before the first day of December in each year, a report of their several proceedings for the past twelve months, and further shall furnish, on or before the same day in each year, to such Auditor as the Governor General in Council appoints in this behalf, accounts of all moneys expended by the Trustees during the past twelve months, supported by the necessary vouchers.

Trustees shall furnish annual reports and accounts.

The said Trustees shall cause such report and accounts to be annually published for general information.

12. The said Trustees shall cause every article in the said collections belonging to the Asiatic Society, and all additions that may hereafter be made thereto otherwise than by purchase under section six, to be marked and numbered, and (subject to the provisions contained in sections nine and fifteen) to be kept and preserved in the said Indian Museum with such marks and numbers; and an inventory of such additions shall be made by the said Society, one copy whereof shall be signed by the said Trustees and delivered to the said Society, and another copy shall be signed by the Council of the said Society and delivered to the said Trustees, and shall be kept by them along with the inventory already delivered to the said Trustees as aforesaid.

Collections of Asiatic Society to be kept distinguished in the Museum.

13. All objects taken in exchange under section nine for, and all moneys payable on sale under the same section of, any of such articles, shall be held on trusts and subject to powers and declarations corresponding as nearly as may be with the trusts, powers and declarations by this Act limited and declared concerning the same articles.

Articles received in exchange and moneys paid on sale to be held on trust.

Miscellaneous.

14. All officers and servants appointed under this Act shall be considered public servants within the meaning of the Indian Penal Code; and so far as regards their salaries, allowances and pensions and their leave of absence from duty, they shall be subject to the rules for the time being applicable to uncovenanted civil servants of the Government of India.

Officers under Act to be public servants.

Their salaries, pensions and leave.

15. In the event of the trust hereby constituted being determined, all collections then in the said Indian Museum, other than those next hereinafter mentioned, shall become the property of the Government of India, and the collections and additions mentioned in section twelve shall become the property of the said Society or their assigns.

In case of determination of trust, Asiatic Society may reclaim their collections.

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

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th December 1876, and is hereby promulgated for general information:—

ACT No. XXIII OF 1876.

THE OPIUM ACT, 1876.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
   Amendment of Act No. VII of 1836, s. 1.
3. Interpretation-clause.
4. Import of opium.
5. Export of opium.
6. Customs laws applied to opium.
7. Warehousing opium.
8. Power to make rules as to poppy-cultivation, opium, &c.
9. Prohibition of poppy-cultivation and possession, &c., of opium.
10. Penalty for illegal cultivation of poppy, &c.
11. Presumption as to opium.
12. Confiscation of opium.
13. Order of confiscation by whom to be made.
14. Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.
15. Power to seize opium in open places.
    Power to detain, search and arrest.
16. Searches how made.
17. Officers to assist each other.
18. Vexatious entries, searches, seizures and arrests.
19. Issue of warrants.
20. Disposal of person arrested or thing seized.
21. Report of arrests and seizures.
22. Procedure in case of illegal poppy-cultivation.
23. Recovery of arrears of taxes and opium-revenue.

SCHEDULE.

An Act to amend the law relating to Opium.

WHEREAS it is expedient to amend the law relating to opium; It is hereby enacted as follows:—

Preamble.

1. This Act may be called "The Opium Act, 1876:"

Short title.

It extends to the whole of British India;

Local extent.

And it shall come into force on the first day of April 1877.

Commencement.

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

Repeal of enactments.

And in Acts No. XI of 1849, No. XXI of 1856, and No. X of 1871 the words "intoxicating drugs" (wherever they occur) shall not include opium.

Amendment of Acts.

The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836 shall be read as if made to the corresponding sections of this Act.

Amendment of Act VII of 1836, s. 1.

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

Interpretation-clause.

"Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:

"Opium."

"Magistrate" means, in the Presidency towns a Magistrate of Police or a Presidency Magistrate, and elsewhere a Magistrate of the first class or (when specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

"Magistrate."

4. No opium shall be imported, by land or by sea, into any part of British India unless—

Import of opium.

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or a Local Government; or

(*b*) it has been imported by sea on payment of the duty prescribed by the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported by sea into British India; or

(*c*) such import is permitted under the power next hereinafter conferred.

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the import of opium, or of any kind of opium, by land, into any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Export of opium.

5. No opium shall be exported by land or by sea from any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or the Local Government; or

(*b*) it has been imported by sea into any British Indian port, and the Local Government has permitted it to be exported on payment of a duty equal in amount to the fee to which it would have been liable under any law for the time being in force, if it had been transhipped at such port; or

(*c*) such export is permitted under the power next hereinafter conferred:

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the export of opium, by land or by sea, from any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Customs laws applied to opium.

6. Subject to the other provisions of this Act, the laws for the time being in force relating to goods imported or exported by sea shall, so far as may be, apply to opium so imported or exported by sea, and the laws for the time being in force relating to goods imported or exported by land shall, so far as may be, apply to opium imported or exported by land.

Warehousing opium.

7. The Governor General in Council may, by order notified in the *Gazette of India*,

(*a*) authorize any Local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories subject to such Local Government, and

(*b*) cancel any such order.

So long as such order remains in force, the Local Government may, by notification published in the official Gazette,

(*c*) declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories subject to such Government, or into any specified part thereof, or intended to be exported thence, and

(*d*) cancel any such declaration.

An order under clause (*b*) shall cancel all previous declarations under clause (*c*) of this section relating to places in the territories to which such order referred.

So long as such declaration remains in force, the owner of all such opium shall be bound to deposit it in such warehouse.

Power to make rules as to poppy-cultivation, opium, &c.

8. The Local Government may from time to time make rules consistent with this Act, or with any other enactment relating to opium for the time being in force, to prohibit or permit, within the whole or any specified part of the territories subject to such Government, all or any of the following matters:—

(*a*) the cultivation of the poppy;

(*b*) the manufacture of opium;

(*c*) the possession of opium;

(*d*) the transport of opium from one place to another within British India;

(*e*) the importation or exportation of opium into or out of British India;

(*f*) the sale of opium;

and to regulate, within the whole or any specified part of such territories, all or any of the matters aforesaid, and also

(*g*) the safe custody of opium warehoused under section seven; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty leviable on it be not paid within twelve months from the date of warehousing the same;

(*h*) the disposal of all things confiscated under this Act;

(*i*) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Such rules shall be submitted for the sanction of the Governor General in Council, and on receiving such sanction shall be published in the local official Gazette, and shall thereupon have the force of law.

Prohibition of poppy-cultivation and possession, &c., of opium.

9. Unless in accordance with this Act, or with any other enactment relating to opium for the time being in force, or with rules framed under this Act, no one shall—

(*a*) cultivate the poppy;

(*b*) manufacture opium;

(*c*) possess opium;

(*d*) transport opium from one place to another within British India;

(*e*) import or export opium into or out of British India; or

(*f*) sell opium.

Penalty for illegal cultivation of poppy, &c.

10. Whoever, in contravention of this Act, or of rules made and published under section eight,

(*a*) cultivates the poppy, or

(*b*) manufactures opium, or

(*c*) possesses opium, or

(*d*) omits to warehouse opium when bound to do so under section seven, or

(*e*) transports opium from one place to another within British India, or

(*f*) imports or exports opium into or out of British India, or

(*g*) sells opium, or otherwise contravenes the said rules relating to sales,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term

which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

Presumption as to opium.

11. In prosecutions under section ten, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Confiscation of opium.

12. In any case in which an offence under section ten has been committed—

(*a*) the poppy so cultivated;

(*b*) the opium in respect of which any offence under the same section has been committed;

(*c*) where, in the case of an offence under clause (*e*) or (*f*) of the same section, the offender is transporting, importing or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import or export, as the case may be, the whole of the opium which he is transporting, importing or exporting;

(*d*) where, in the case of an offence under clause (*g*) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, and

(*e*) the vessels, packages and coverings in which any opium confiscated under the same section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it,

shall be liable to confiscation.

Order of confiscation by whom to be made.

13. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted, but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.

Whenever confiscation is authorised by this Act, the officer adjudging it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the District or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons (if any) claiming any right thereto and the evidence (if any) which they produce in support of their claims.

Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf, and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

(*a*) enter into any such building, vessel or place;

(*b*) in case of resistance, break open any door and remove any other obstacle to such entry;

(*c*) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium, and

(*d*) detain and search, and if he think proper arrest, any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

Power to seize opium in open places.

15. Any officer of any of the said departments may

(*a*) seize in any open place, or in transit, any opium or other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium,

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

Power to detain, search and arrest.

Searches how made.

16. All searches under section fourteen or section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

Officers to assist each other.

17. The officers of the several departments mentioned in section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Vexatious entries, searches, seizures and arrests.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

Issue of warrants.

19. The Collector of the District, Deputy Commissioner or other officer authorized by the Local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any house, boat or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

Disposal of person arrested or thing seized.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest Police-station; and every person arrested and thing seized under section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

Report of arrests and seizures.

21. Whenever any officer makes any arrest or seizure under this Act, he shall within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his official superior.

Procedure in case of illegal poppy-cultivation.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Provided that, wherever Act No. XIII of 1857 *(An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal)* or any part thereof, is in force, nothing in this Act shall apply to such cultivation and manufacture.

Recovery of arrears of taxes and opium-revenue.

23. Any arrear of tax, fee or duty due under this Act or under any rule duly made under section eight,

and any arrear due from any farmer of opium-revenue,

may be recovered as if it were an arrear of land-revenue.

SCHEDULE.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849.	Abkárí Revenue of Calcutta	In section 5, the word "opium." In section 6, the word "opium" and the last thirty-one words. In section 15, from and including the words "except in the case", to the end of the section.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*continued.*

Number and year.	Subject	Extent of repeal.
		In section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer."
Act III of 1852.	Spirituous liquors, Bombay ...	Section 10, so far as it relates to opium.
Act XXI of 1856.	Bengal Abkárí Act ...	In section 28, the word "opium." Sections 34, 51, 52, 53 and 87. In section 35, the words "or opium." In section 49, the words "except opium." Section 59, so far as it relates to opium. In section 75, the words "except opium" and from and including the words "opium seized," down to the end. In section 76, from and including the words "except opium," down to and including the words "each seer;" and from and including the words "or, in," down to and including the words "each seer." In paragraph 8 of section 90, the words "and opium."

ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*continued.*

Number and year.	Subject.	Extent of repeal.
Act XIII of 1857.	Cultivation of the poppy and manufacture of opium.	Section 2.
Act X of 1871	The Northern India Excise Act.	In paragraph 5 of section 3, the word "opium." Sections 18, 65, 66, 67 and 87. In section 19, the words "or opium." Section 46, so far as it relates to opium. In section 46, paragraph 3, from and including the words "as well as," down to and including the words "dealings in opium." In section 63, the words "except opium." In section 78, the words "except opium," and paragraph 2. In section 79, from and including the words "except opium," down to and including the words "each seer," and from and including the words "or in," down to and including the words "each seer."

ACTS OF THE GOVERNOR GENERAL IN COUNCIL—*concluded.*

Number and year.	Subject.	Extent of repeal.
Act IV of 1872.	The Panjáb Laws Act ...	Section 49.
Act XXVI of 1872.	Panjáb Opium Law Amendment.	The whole Act.
Act VI of 1873.	Transhipment of goods ...	Section 7.
Act XVI of 1875.	The Indian Tariff Act ...	Section 9.

BOMBAY REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bom. Reg. XXI of 1827	Duty on opium	The preamble, from and including the words "with the combined," down to and including the words "be prohibited." Chapters I, II, III and IV.
Bom. Reg. XX of 1830.	Malwa opium	So much as has not been repealed.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, JANUARY 13, 1877. { Register No. 33.

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

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 19th December 1876, and is hereby promulgated for general information :—

ACT No. XXIII OF 1876.

THE OPIUM ACT, 1876.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
   Amendment of Act No. VII of 1836, s. 1.
3. Interpretation-clause.
4. Import of opium.
5. Export of opium.
6. Customs laws applied to opium.
7. Warehousing opium.
8. Power to make rules as to poppy-cultivation, opium, &c.
9. Prohibition of poppy-cultivation and possession, &c., of opium.
10. Penalty for illegal cultivation of poppy, &c.
11. Presumption as to opium.
12. Confiscation of opium.
13. Order of confiscation by whom to be made.
14. Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.
15. Power to seize opium in open places.
    Power to detain, search and arrest.
16. Searches how made.
17. Officers to assist each other.
18. Vexatious entries, searches, seizures and arrests.
19. Issue of warrants.
20. Disposal of person arrested or thing seized.
21. Report of arrests and seizures.
22. Procedure in case of illegal poppy-cultivation.
23. Recovery of arrears of taxes and opium-revenue.

SCHEDULE.

An Act to amend the law relating to Opium.

WHEREAS it is expedient to amend the law relating to opium; It is hereby enacted as follows :—

Preamble.

1. This Act may be called "The Opium Act, 1876:"

Short title.

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the first day of April 1877.

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

Repeal of enactments.

And in Acts No. XI of 1849, No. XXI of 1856, and No. X of 1871 the words "intoxicating drugs" (wherever they occur) shall not include opium.

Amendment of Acts.

The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836 shall be read as if made to the corresponding sections of this Act.

Amendment of Act VII of 1836, s. 1.

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

Interpretation-clause.

"Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy :

"Opium."

"Magistrate" means, in the Presidency towns a Magistrate of Police or a Presidency Magistrate, and elsewhere a Magistrate of the first class or (when

"Magistrate."

specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Import of opium.

4. No opium shall be imported, by land or by sea, into any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or a Local Government; or

(*b*) it has been imported by sea on payment of the duty prescribed by the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported by sea into British India; or

(*c*) such import is permitted under the power next hereinafter conferred.

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the import of opium, or of any kind of opium, by land, into any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Export of opium.

5. No opium shall be exported by land or by sea from any part of British India unless—

(*a*) it is covered by a pass granted by an officer appointed in this behalf by the Governor General in Council or the Local Government; or

(*b*) it has been imported by sea into any British Indian port, and the Local Government has permitted it to be exported on payment of a duty equal in amount to the fee to which it would have been liable under any law for the time being in force, if it had been transhipped at such port; or

(*c*) such export is permitted under the power next hereinafter conferred:

The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*d*) permit the export of opium, by land or by sea, from any specified part of British India on payment of such duty, or on such other terms, as the Governor General in Council thinks fit; and

(*e*) cancel such permission.

Customs laws applied to opium.

6. Subject to the other provisions of this Act, the laws for the time being in force relating to goods imported or exported by sea shall, so far as may be, apply to opium so imported or exported by sea, and the laws for the time being in force relating to goods imported or exported by land shall, so far as may be, apply to opium imported or exported by land.

Warehousing opium.

7. The Governor General in Council may, by order notified in the *Gazette of India*,

(*a*) authorize any Local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories subject to such Local Government, and

(*b*) cancel any such order.

So long as such order remains in force, the Local Government may, by notification published in the official Gazette,

(*c*) declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories subject to such Government, or into any specified part thereof, or intended to be exported thence, and

(*d*) cancel any such declaration.

An order under clause (*b*) shall cancel all previous declarations under clause (*c*) of this section relating to places in the territories to which such order referred.

So long as such declaration remains in force, the owner of all such opium shall be bound to deposit it in such warehouse.

Power to make rules as to poppy-cultivation, opium, &c.

8 The Local Government may from time to time make rules consistent with this Act, or with any other enactment relating to opium for the time being in force, to prohibit or permit, within the whole or any specified part of the territories subject to such Government, all or any of the following matters:—

(*a*) the cultivation of the poppy;

(*b*) the manufacture of opium;

(*c*) the possession of opium;

(*d*) the transport of opium from one place to another within British India;

(*e*) the importation or exportation of opium into or out of British India;

(*f*) the sale of opium;

and to regulate, within the whole or any specified part of such territories, all or any of the matters aforesaid, and also

(*g*) the safe custody of opium warehoused under section seven; the levy of fees for such warehousing; the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty leviable on it be not paid within twelve months from the date of warehousing the same;

(*h*) the disposal of all things confiscated under this Act;

(*i*) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

Such rules shall be submitted for the sanction of the Governor General in Council, and on receiving such sanction shall be published in the local official Gazette, and shall thereupon have the force of law.

Prohibition of poppy-cultivation and possession, &c., of opium.

9. Unless in accordance with this Act, or with any other enactment relating to opium for the time being in force, or with rules framed under this Act, no one shall—

(*a*) cultivate the poppy;

(*b*) manufacture opium;

(*c*) possess opium;

(*d*) transport opium from one place to another within British India;

(*e*) import or export opium into or out of British India; or

(*f*) sell opium.

Penalty for illegal cultivation of poppy, &c.

10. Whoever, in contravention of this Act, or of rules made and published under section eight,

(*a*) cultivates the poppy, or

(*b*) manufactures opium, or

(*c*) possesses opium, or

(*d*) omits to warehouse opium when bound to do so under section seven, or

(*e*) transports opium from one place to another within British India, or

(*f*) imports or exports opium into or out of British India, or

(*g*) sells opium, or otherwise contravenes the said rules relating to sales,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for

a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

Presumption as to opium.

11. In prosecutions under section ten, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Confiscation of opium.

12. In any case in which an offence under section ten has been committed—

(*a*) the poppy so cultivated;

(*b*) the opium in respect of which any offence under the same section has been committed;

(*c*) where, in the case of an offence under clause (*e*) or (*f*) of the same section, the offender is transporting, importing or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import or export, as the case may be, the whole of the opium which he is transporting, importing or exporting;

(*d*) where, in the case of an offence under clause (*g*) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium, and

(*e*) the vessels, packages and coverings in which any opium confiscated under the same section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it,

shall be liable to confiscation.

Order of confiscation by whom to be made.

13. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted, but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.

Whenever confiscation is authorised by this Act, the officer adjudging it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when poppies or opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the District or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation: Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons (if any) claiming any right thereto and the evidence (if any) which they produce in support of their claims.

Power to enter, arrest and seize, on information that opium is unlawfully kept in any enclosed place.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf, and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,

(*a*) enter into any such building, vessel or place;

(*b*) in case of resistance, break open any door and remove any other obstacle to such entry;

(*c*) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium, and

(*d*) detain and search, and if he think proper arrest, any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

Power to seize opium in open places.

15. Any officer of any of the said departments may

(*a*) seize in any open place, or in transit, any opium or other thing which he has reason to believe to be liable to confiscation under section twelve or any other law for the time being in force relating to opium,

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

Power to detain, search and arrest.

Searches how made.

16. All searches under section fourteen or section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

Officers to assist each other.

17. The officers of the several departments mentioned in section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Vexatious entries, searches, seizures and arrests.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall for every such offence be punished with fine not exceeding five hundred rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

Issue of warrants.

19. The Collector of the District, Deputy Commissioner or other officer authorized by the Local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any house, boat or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

Disposal of person arrested or thing seized.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest Police-station; and every person arrested and thing seized under section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

Report of arrests and seizures.

21. Whenever any officer makes any arrest or seizure under this Act, he shall within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his official superior.

Procedure in case of illegal poppy-cultivation.

22. In the case of alleged illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Provided that, wherever Act No. XIII of 1857 *(An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal)* or any part thereof, is in force, nothing in this Act shall apply to such cultivation and manufacture.

Recovery of arrears of taxes and opium-revenue.

23. Any arrear of tax, fee or duty due under this Act or under any rule duly made under section eight,

and any arrear due from any farmer of opium-revenue,

may be recovered as if it were an arrear of land-revenue.

SCHEDULE.

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849.	Abkárí Revenue of Calcutta	In section 5, the word "opium." In section 6, the word "opium" and the last thirty-one words. In section 15, from and including the words "except in the case", to the end of the section.
		In section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer."
Act III of 1852.	Spirituous liquors, Bombay ...	Section 10, so far as it relates to opium.
Act XXI of 1856.	Bengal Abkárí Act ...	In section 28, the word "opium." Sections 34, 51, 52, 53 and 87. In section 35, the words "or opium." In section 49, the words "except opium." Section 59, so far as it relates to opium. In section 75, the words "except opium" and from and including the words "opium seized," down to the end. In section 76, from and including the words "except opium," down to and including the words "each seer;" and from and including the words "or, in," down to and including the words "each seer." In paragraph 8 of section 90, the words "and opium."

ACTS OF THE GOVERNOR GENERAL IN COUNCIL — *continued.*

Number and year.	Subject.	Extent of repeal.
Act XIII of 1857.	Cultivation of the poppy and manufacture of opium.	Section 2.
Act X of 1871	The Northern India Excise Act.	In paragraph 5 of section 3, the word "opium." Sections 18, 65, 66, 67 and 87. In section 19. the words "or opium." Section 46, so far as it relates to opium. In section 46, paragraph 3, from and including the words "as well as," down to and including the words "dealings in opium." In section 63, the words "except opium." In section 78, the words "except opium," and paragraph 2. In section 79, from and including the words "except opium," down to and including the words "each ser," and from and including the words "or in," down to and including the words "each ser."

ACTS OF THE GOVERNOR GENERAL IN COUNCIL — *concluded.*

Number and year.	Subject.	Extent of repeal.
Act IV of 1872.	The Panjáb Laws Act ...	Section 49.
Act XXVI of 1872.	Panjáb Opium Law Amendment.	The whole Act.
Act VI of 1873.	Transhipment of goods ...	Section 7.
Act XVI of 1875.	The Indian Tariff Act ...	Section 9.

BOMBAY REGULATIONS.

Number and year.	Subject.	Extent of repeal.
Bom. Reg. XXI of 1827	Duty on opium	The preamble, from and including the words "with the combined," down to and including the words "be prohibited." Chapters I, II, III and IV.
Bom. Reg. XX of 1830.	Malwa opium	So much as has not been repealed.

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

The Gazette of India.

PUBLISHED BY AUTHORITY.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 7th February 1877, and is hereby promulgated for general information :—

ACT I OF 1877.

THE SPECIFIC RELIEF ACT, 1877.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
3. Interpretation-clause.
4. Savings.
5. Specific relief how given.
6. Preventive relief.
7. Relief not granted to enforce penal law.

PART II.

OF SPECIFIC RELIEF.

CHAPTER I.

OF RECOVERING POSSESSION OF PROPERTY.

(*a*). *Possession of Immoveable Property.*

8. Recovery of specific immoveable property.
9. Suit by person dispossessed of immoveable property.

SECTIONS.

(*b*). *Possession of Moveable Property.*

10. Recovery of specific moveable property.
11. Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

CHAPTER II.

OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(*a*). *Contracts which may be specifically enforced.*

12. Cases in which specific performance enforceable.
13. Contracts of which the subject has partially ceased to exist.
14. Specific performance of part of contract where part unperformed is small.
15. Specific performance of part of a contract where the part unperformed is large.
16. Specific performance of independent part of a contract.
17. Bar in other cases of specific performance of part of contract.
18. Purchaser's rights against vendor with imperfect title.
19. Power to award compensation in certain cases.
20. Liquidation of damages not a bar to specific performance.

(*b*). *Contracts which cannot be specifically enforced.*

21. Contracts not specifically enforceable.

(*c*). *Of the Discretion of the Court.*

22. Discretion as to decreeing specific performance.

(*d*). *For whom Contracts may be specifically enforced.*

23. Who may obtain specific performance.

(*e*). *For whom Contracts cannot be specifically enforced.*

24. Personal bars to the relief.

SECTIONS.

25. Contracts to sell property by one who has no title, or who is a voluntary settler.

(*f*). *For whom Contracts cannot be specifically enforced, except with a variation.*

26. Non-enforcement except with variation.

(*g*). *Against whom Contracts may be specifically enforced.*

27. Relief against parties and persons claiming under them by subsequent title.

(*h*). *Against whom Contracts cannot be specifically enforced.*

28. What parties cannot be compelled to perform.

(*i*). *The Effect of dismissing a Suit for Specific Performance.*

29. Bar of suit for breach after dismissal.

(*j*). *Awards and Directions to execute Settlements.*

30. Application of preceding sections to awards and testamentary directions to execute settlements.

CHAPTER III.

OF THE RECTIFICATION OF INSTRUMENTS.

31. When instrument may be rectified.
32. Presumption as to intent of parties.
33. Principles of rectification.
34. Specific enforcement of rectified contract.

CHAPTER IV.

OF THE RESCISSION OF CONTRACTS.

35. When rescission may be adjudged.
36. Rescission for mistake.
37. Alternative prayer for rescission in suit for specific performance.
38. Court may require party rescinding to do equity.

CHAPTER V.

OF THE CANCELLATION OF INSTRUMENTS.

39. When cancellation may be ordered.
40. What instruments may be partially cancelled.
41. Power to require party for whom instrument is cancelled to make compensation.

CHAPTER VI.

OF DECLARATORY DECREES.

42. Discretion of Court as to declarations of status, or right.
Bar to such declaration.
43. Effect of declaration.

CHAPTER VII.

OF THE APPOINTMENT OF RECEIVERS.

44. Appointment of Receivers discretionary.
Reference to Code of Civil Procedure.

CHAPTER VIII.

OF THE ENFORCEMENT OF PUBLIC DUTIES.

45. Power to order public servants and others to do certain specific acts.
Exemptions from such power.

SECTIONS.

46. Application how made.
Procedure thereon.
Order in alternative.
47. Peremptory order.
48. Execution of, and appeal from, orders.
49. Costs.
50. Bar to issue of *mandamus*.
51. Power to frame rules.

PART III.

OF PREVENTIVE RELIEF.

CHAPTER IX.

OF INJUNCTIONS GENERALLY.

52. Preventive relief how granted.
53. Temporary injunctions.
Perpetual injunctions.

CHAPTER X.

OF PERPETUAL INJUNCTIONS.

54. Perpetual injunctions when granted.
55. Mandatory injunctions.
56. Injunction when refused.
57. Injunction to perform negative agreement.

SCHEDULE.—Enactments repealed.

An Act to define and amend the Law relating to certain kinds of Specific Relief.

WHEREAS it is expedient to define and amend the law relating to certain kinds of specific relief obtainable in civil suits; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Specific Relief Act, 1877:" Short title.

It extends to the whole of British India, except the Scheduled Districts as defined in Act No. XIV of 1874; Local extent.

And it shall come into force on the first day of May 1877. Commencement.

2. On and from that day the Acts specified in the schedule hereto annexed shall be repealed to the extent mentioned in its third column. Repeal of enactments.

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

'obligation' includes every duty enforceable by law: 'obligation.'

'trust' includes every species of express, implied, or constructive fiduciary ownership: 'trust.'

'trustee' includes every person holding, expressly, by implication, or constructively, a fiduciary character: 'trustee.'

Illustrations.

(*a*). Z bequeaths land to A, 'not doubting that he will pay thereout an annuity of Rs. 1,000 to B for his life.' A accepts the bequest. A is a trustee within the meaning of this Act for B to the extent of the annuity.

(*b*). A is the legal, medical, or spiritual adviser of B. By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee for B within the meaning of this Act of such advantage.

(*c*). A, being B's banker, discloses for his own purpose the state of B's account. A is a trustee within the meaning of this Act for B of the benefit gained by him by means of such disclosure.

(*d*). A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee within the meaning of this Act of the renewed lease for those interested in the original lease.

(*e*). A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee, for his co-partners, within the meaning of this Act of the profit so made.

(*f*). A, the manager of B's indigo factory, becomes agent for C, a vendor of indigo-seed, and receives, without B's assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(*g*). A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, for B, of the land so bought.

(*h*). A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act, for C, to the extent of that interest.

'settlement' means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of: 'settlement.'

and all words occurring in this Act, which are defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively assigned to them by that Act. Words defined in Contract Act.

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed— Savings.

(*a*) to give any right to relief in respect of any agreement which is not a contract;

(*b*) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or

(*c*) to affect the operation of the Indian Registration Act on documents.

5. Specific relief is given— Specific relief how given.

(*a*) by taking possession of certain property and delivering it to a claimant;

(*b*) by ordering a party to do the very act which he is under an obligation to do;

(*c*) by preventing a party from doing that which he is under an obligation not to do;

(*d*) by determining and declaring the rights of parties otherwise than by an award of compensation; or

(*e*) by appointing a Receiver.

6. Specific relief granted under clause (*c*) of section 5 is called preventive relief. Preventive relief.

7. Specific relief cannot be granted for the mere purpose of enforcing a penal law. Relief not granted to enforce penal law.

PART II.

OF SPECIFIC RELIEF.

CHAPTER I.

OF RECOVERING POSSESSION OF PROPERTY.

(*a*).—*Possession of Immoveable Property.*

8. A person entitled to the possession of specific immoveable property may recover it in the manner prescribed by the Code of Civil Procedure. Recovery of specific immoveable property.

9. If any person is dispossessed without his consent of immoveable property otherwise than in due course of law, he or any person claiming through him may, by suit instituted within six months from the date of the dispossession, recover possession thereof, notwithstanding any other title that may be set up in such suit. Suit by person dispossessed of immoveable property.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(*b*). *Possession of Moveable Property.*

10. A person entitled to the possession of specific moveable property may recover the same in the manner prescribed by the Code of Civil Procedure. Recovery of specific moveable property.

EXPLANATION 1.—A trustee may sue under this section for the possession of property to the beneficial interest in which the person for whom he is trustee is entitled.

EXPLANATION 2.—A special or temporary right to the present possession of property is sufficient to support a suit under this section.

Illustrations.

(*a*). A bequeaths land to B for his life, with remainder to C. A dies. B enters on the land, but C, without B's consent, obtains possession of the title-deeds. B may recover them from C.

(*b*). A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession, whatever right he may have to secure their safe custody.

(*c*). A receives a letter addressed to him by B. B gets back the letter without A's consent. A has such a property therein as entitles him to recover it from B.

(*d*). A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under section 168 of the Indian Contract Act, 1872.

(*e*). A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

11. Any person having the possession or control of a particular article of moveable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:— Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

(*a*) when the thing claimed is held by the defendant as the agent or trustee of the claimant;

(*b*) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed;

(*c*) when it would be extremely difficult to ascertain the actual damage caused by its loss;

(*d*) when the possession of the thing claimed has been wrongfully transferred from the claimant.

Illustrations

of clause (*a*).—A, proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B, without A's authority, pledges the furniture to C, and C, knowing that B had no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee.

of clause (*b*).—Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver the idol to A.

of clause (*c*).—A is entitled to a picture by a dead painter and a pair of rare China vases. B has possession of them. The articles are of too special a character to bear an ascertainable market-value. B may be compelled to deliver them to A.

CHAPTER II.

OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(*a*). *Contracts which may be specifically enforced.*

Cases in which specific performance enforceable.

12. Except as otherwise provided in this chapter, the specific performance of any contract may in the discretion of the Court be enforced—

(*a*) when the act agreed to be done is in the performance, wholly or partly, of a trust;

(*b*) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done;

(*c*) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief; or

(*d*) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

EXPLANATION.—Unless and until the contrary is proved, the Court shall presume that the breach of a contract to transfer immoveable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved.

Illustrations

of clause (*a*).—A holds certain stock in trust for B. A wrongfully disposes of the stock. The law creates an obligation on A to restore the same quantity of stock to B, and B may enforce specific performance of this obligation.

of clause (*b*).—A agrees to buy, and B agrees to sell, a picture by a dead painter and two rare China vases. A may compel B specifically to perform this contract, for there is no standard for ascertaining the actual damage which would be caused by its non-performance.

of clause (*c*).—A contracts with B to sell him a house for Rs. 1,000. B is entitled to a decree directing A to convey the house to him, he paying the purchase-money.

In consideration of being released from certain obligations imposed on it by its Act of incorporation, a railway company contract with Z to make an archway through their railway to connect lands of Z severed by the railway, to construct a road between certain specified points, to pay a certain annual sum towards the maintenance of this road, and also to construct a siding and a wharf as specified in the contract. Z is entitled to have this contract specifically enforced, for his interest in its performance cannot be adequately compensated for by money; and the Court may appoint a proper person to superintend the construction of the archway, road, siding and wharf.

A contracts to sell, and B contracts to buy, a certain number of railway-shares of a particular description. A refuses to complete the sale. B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder, which cannot otherwise be procured.

A contracts with B to paint a picture for B, who agrees to pay therefor Rs. 1,000. The picture is painted. B is entitled to have it delivered to him on payment or tender of the Rs. 1,000.

of clause (*d*).—A transfers without endorsement, but for valuable consideration, a promissory note to B. A becomes insolvent, and C is appointed his assignee. B may compel C to endorse the note, for C has succeeded to A's liabilities, and a decree for pecuniary compensation for not endorsing the note would be fruitless.

Contracts of which the subject has partially ceased to exist.

13. Notwithstanding anything contained in section 56 of the Indian Contract Act, a contract is not wholly impossible of performance, because a portion of its subject-matter existing at its date has ceased to exist at the time of the performance.

Illustrations.

(*a*). A contracts to sell a house to B for a lákh of rupees. The day after the contract is made, the house is destroyed by a cyclone. B may be compelled to perform his part of the contract by paying the purchase-money.

(*b*). In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been made, B is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

Specific performance of part of contract where part unperformed is small.

14. Where a party to a contract is unable to perform the whole of his part of it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

Illustrations.

(*a*). A contracts to sell B a piece of land consisting of 100 bíghás. It turns out that 98 bíghás of the land belong to A, and the two remaining bíghás to a stranger, who refuses to part with them. The two bíghás are not necessary for the use or enjoyment of the 98 bíghás, nor so important for such use or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 bíghás and to make compensation to him for not conveying the two remaining bíghás; or B may be directed, at the suit of A, to pay to A on receiving the conveyance and possession of the land, the stipulated purchase-money, less a sum awarded as compensation for the deficiency.

(*b*). In a contract for the sale and purchase of a house and lands for two lákhs of rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

Specific performance of part of a contract where the part unperformed is large.

15. Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, he is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, provided that the plaintiff relinquishes all claim to further performance, and all right to compensation, either for the deficiency, or for the loss or damage sustained by him through the default of the defendant.

Illustrations.

(*a*). A contracts to sell to B a piece of land consisting of 100 bíghás. It turns out that 50 bíghás of the land belong to A, and the other 50 bíghás to a stranger, who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 bíghás which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree directing A to convey those 50 bíghás to him on payment of the purchase-money.

(*b*). A contracts to sell to B an estate with a house and garden for a lákh of rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree, directing A to convey the house to him on payment of the purchase-money.

Specific performance of independent part of a contract.

16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.

Bar in other cases of specific performance of part of contract.

17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other of the three last preceding sections.

Purchaser's rights against vendor with imperfect title.

18. Where a person contracts to sell or let certain property, having only an imperfect title thereto, the purchaser or lessee (except as otherwise provided by this chapter) has the following rights:—

(*a*) if the vendor or lessor has subsequently to the sale or lease acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;

(*b*) where the concurrence of other persons is necessary to validate the title, and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence;

(*c*) where the vendor professes to sell unincumbered property, but the property is mortgaged for an amount not exceeding the purchase-money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and to obtain a conveyance from the mortgagee;

(*d*) where the vendor or lessor sues for specific performance of the contract, and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to his costs of the suit, and to a lien for such deposit, interest and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

Power to award compensation in certain cases.

19. Any person suing for the specific performance of a contract, may also ask for compensation for its breach, either in addition to, or in substitution for, such performance.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any such suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

EXPLANATION.—The circumstance that the contract has become incapable of specific performance, does not preclude the Court from exercising the jurisdiction conferred by this section.

Illustrations

of the second paragraph:—A contracts to sell a hundred maunds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion that A has made a valid contract and has broken it, without excuse, to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph:—A contracts with B to sell him a house for Rs. 1,000, the price to be paid and the possession given on the 1st January 1877. A fails to perform his part of the contract, and B brings his suit for specific performance and compensation, which is decided in his favour on the 1st January 1878. The decree may, besides ordering specific performance, award to B compensation for any loss which he has sustained by A's refusal.

of the Explanation:—A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent. Before the hearing of the suit, the patent expires. The Court may award A compensation for the non-performance of the contract and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him, and for compensation for the non-performance of the resolution. All the shares had been allotted before the institution of the suit. The Court may, under this section, award A compensation for the non-performance.

Liquidation of damages not a bar to specific performance.

20. A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

Illustration.

A contracts to grant B an underlease of property held by A under C, and that he will apply to C for a license necessary to the validity of the underlease and that, if the license is not procured, A will pay B Rs. 10,000. A refuses to apply for the license and offers to pay B the Rs. 10,000. B is nevertheless entitled to have the contract specifically enforced if C consents to give the license.

(*b*). *Contracts which cannot be specifically enforced.*

Contracts not specifically enforceable.

21. The following contracts cannot be specifically enforced:—

(*a*) a contract for the non-performance of which compensation in money is an adequate relief;

(*b*) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms;

(*c*) a contract the terms of which the Court cannot find with reasonable certainty;

(*d*) a contract which is in its nature revocable;

(*e*) a contract made by trustees either in excess of their powers or in breach of their trust;

(*f*) a contract made by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers;

(*g*) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date;

(*h*) a contract of which a material part of the subject-matter, supposed by both parties, to exist has, before it has been made, ceased to exist.

And save as provided by the Code of Civil Procedure, no contract to refer a controversy to arbitration shall be specifically enforced; but if any person who has made such a contract and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

Illustrations

to (*a*).—A contracts to sell, and B contracts to buy, a lákh of rupees in the four per cent. loan of the Government of India.

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rs. 1,000 per chest.

In consideration of certain property having been transferred by A to B, B contracts to open a credit in A's favour to the extent of Rs. 10,000, and to honour A's drafts to that amount.

The above contracts cannot be specifically enforced, for, in the first and the second both A and B, and in the third A would be reimbursed by compensation in money.

to (*b*).—A contracts to render personal service to B:

A contracts to employ B on personal service:

A, an author, contracts with B, a publisher, to complete a literary work.

B cannot enforce specific performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made, A instructs his valuer not to proceed.

By a charter party entered into in Calcutta between A, the owner of a ship, and B, the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London.

A lets land to B and B contracts to cultivate it in a particular manner for three years next after the date of the lease.

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contract grow particular crops on the land in his possession and deliver them to A when cut and ready for delivery.

A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B, he will paint a picture for B.

A contracts with B to execute certain works which the Court cannot superintend.

A contracts to supply B with all the goods of a certain class which B may require.

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, "if the drawing-room is handsomely decorated," even if it is held to have so much certainty that compensation can be recovered for its breach.

A contracts to marry B.

The above contracts cannot be specifically enforced.

to (*c*).—A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (*d*).—A and B contract to become partners in a certain business, the contract not specifying the duration of the proposed partnership. This contract cannot be specifically performed, for, if it were so performed, either A or B might at once dissolve the partnership.

to (*e*).—A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a covenant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced.

Two trustees, A and B, empowered to sell trust-property worth a lákh of rupees, contract to sell it to C for Rs. 30,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property and in fact agree to pay an extravagant price therefor. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (*f*).—A company existing for the sole purpose of making and working a railway, contracts for the purchase of a piece of land for the purpose of erecting a cotton-mill thereon. This contract cannot be specifically enforced.

to (*g*).—A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land, and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

to (*h*).—A contracts to pay an annuity to B for the lives of C and D. It turns out that, at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

(*c*). *Of the Discretion of the Court.*

Discretion as to decreeing specific performance.

22. The jurisdiction to decree specific performance is discretionary, and the Court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the Court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:—

I. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

Illustrations.

(*a*). A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy, and B contracts to sell, that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance of the contract. If B knew the fact, and C did not, specific performance of the contract should be refused to B.

(*b*). A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact the value of C's interest depends on the result of certain partnership-accounts, on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(*c*). A contracts to sell, and B contracts to buy, certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance of the contract should be refused to A.

(*d*). A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present seeing the vendor's attorney bidding, think that he is a mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance of the contract should be refused to B.

II. Where the performance of the contract would involve some hardship on the defendant which he did not foresee, whereas its non-performance would involve no such hardship on the plaintiff.

Illustrations.

(*e*). A is entitled to some land under his father's will on condition that, if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty-five years, to sell the land to C. Here, the enforcement of the contract would operate so harshly on A, that the Court will not compel its specific performance in favour of C.

(*f*). A and B, trustees, join their beneficiary, C, in a contract to sell the trust-estate to D, and personally agree to exonerate the estate from heavy incumbrances to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(*g*). A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, shall not be obliged to define its boundary. The estate really comprises a valuable property not known to either to be part of it. Specific performance of the contract should be refused to B, unless he waives his claim to the unknown property.

(*h*). A contracts with B to sell him certain land, and to make a road to it from a certain railway-station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest with compensation for loss of the road.

(*i*). A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used in and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance of it should be refused to B.

(*j*). A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(*k*). A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods, but if he does not supply them, A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the contract should be refused to B.

III. Where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

Illustration.

A sells land to a railway company who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should be decreed in favour of A.

(*d*). *For whom Contracts may be specifically enforced.*

Who may obtain specific performance.

23. Except as otherwise provided by this chapter, the specific performance of a contract may be obtained by—

(*a*) any party thereto;

(*b*) the representative in interest, or the principal, of any party thereto: provided that, where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless where his part thereof has already been performed;

(*c*) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder;

(*d*) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;

(*e*) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;

(*f*) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;

(*g*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(*h*) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(*e*). *For whom Contracts cannot be specifically enforced.*

Personal bars to the relief.

24. Specific performance of a contract cannot be enforced in favour of a person—

(*a*) who could not recover compensation for its breach;

(*b*) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed; or

(*c*) who has already chosen his remedy and obtained satisfaction for the alleged breach of contract;

(*d*) who, previously to the contract had notice that a settlement of the subject-matter thereof, (though not founded on any valuable consideration) had been made and was then in force.

Illustrations

to clause (*a*).—A, in the character of agent for B, enters into an agreement with C to buy C's house. A is in reality acting, not as agent for B, but on his own account. A cannot enforce specific performance of this contract.

to clause (*b*).—A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, fells the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner: he cannot enforce the contract specifically, though A and B may sue each other for compensation for breach of it.

to clause (*c*).—A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract. A thereupon sues for, and obtains, compensation for the breach. A cannot obtain specific performance of the contract.

Contracts to sell property by one who has no title, or who is a voluntary settler.

25. A contract for the sale or letting of property, whether moveable or immoveable, cannot be specifically enforced in favour of a vendor or lessor—

(*a*) who, knowing himself not to have any title to the property, has contracted to sell or let the same;

(*b*) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt;

(*c*) who, previous to entering into the contract, has made a settlement (though not founded on any valuable consideration) of the subject-matter of the contract.

Illustrations.

(*a*). A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract, even though C is willing to confirm it.

(*b*). A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce this contract, as, in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(*c*). A, being in possession of certain land, contracts to sell it to Z. On enquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(*d*). A, out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A cannot enforce specific performance of this contract so as to override the settlement, and thus prejudice the interests of the persons claiming under it.

(*f*). *For whom Contracts cannot be specifically enforced except with a variation.*

Non-enforcement except with variation.

26. Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases (namely):—

(*a*) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;

(*b*) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;

(*c*) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part, which adds to the contract, but which he refuses to fulfil;

(*d*) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;

(*e*) where the parties have, subsequently to the execution of the contract, contracted to vary it.

Illustrations.

(*a*). A, B and C sign a writing by which they purport to contract each to enter into a bond to D for Rs. 1,000. In a suit by D, to make A, B and C separately liable each to the extent of Rs. 1,000, they prove that the word 'each' was inserted by mistake; that the intention was that they should give a joint bond for Rs. 1,000. A can obtain the performance sought only with the variation thus set up.

(*b*). A sues B to compel specific performance of a contract in writing to buy a dwelling-house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was so included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(*c*). A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions, and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the written contract, except with the variation set up by B.

(*d*). A and B enter into negotiations for the purpose of securing land to B for his life, with remainder to his issue. They execute a contract the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(*e*). A contracts in writing to let a house to B, for a certain term, at the rent of Rs. 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place: B contracting orally to pay rent at Rs. 120 per mensem. B then sues to enforce specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(*g*). *Against whom Contracts may be specifically enforced.*

Relief against parties and persons claiming under them by subsequent title.

27. Except as otherwise provided by this chapter, specific performance of a contract may be enforced against—

(*a*) either party thereto;

(*b*) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;

(*c*) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;

(*d*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(*e*) when the promoters of a public company have, before its incorporation, entered into a contract, the company: provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

Illustrations

to clause (*b*).—A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rs. 5,000. A afterwards conveys the land for Rs. 6,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rs. 5,000. B takes possession of the land. Afterwards A sells it to C for Rs. 6,000. C makes no enquiry of B relating to his interest in the land. B's possession is sufficient to affect C with notice of his interest, and he may enforce specific performance of the contract against C.

A contracts in consideration of Rs. 1,000, to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce specific performance of the contract against C.

A contracts to sell certain land to B. Before the completion of the contract, A becomes a lunatic and C is appointed his committee. B may specifically enforce the contract against C.

to clause (*c*).—A, the tenant for life of an estate, with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alien in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.

(*h*). *Against whom Contracts cannot be specifically enforced.*

What parties cannot be compelled to perform.

28. Specific performance of a contract cannot be enforced against a party thereto in any of the following cases:—

(*a*) if the consideration to be received by him is so grossly inadequate, with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud or of undue advantage taken by the plaintiff;

(*b*) if his assent was obtained by the misrepresentation (whether wilful or innocent), concealment, circumvention, or unfair practices, of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled;

(*c*) if his assent was given under the influence of mistake of fact, misapprehension or surprise: Provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision and the contract may be specifically enforced in other respects if proper to be so enforced.

Illustrations

to clause (*c*).—A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 20 bighás of this land, but the auctioneer inadvertently sells the whole to B, who has not notice of the revocation. B cannot enforce specific performance of the agreement.

(*i*). *The Effect of dismissing a Suit for Specific Performance.*

Bar of suit for breach after dismissal.

29. The dismissal of a suit for specific performance of a contract or part thereof shall bar the plaintiff's right to sue for compensation for the breach of such contract or part, as the case may be.

(*j*). *Awards and Directions to execute Settlements.*

Application of preceding sections to awards and testamentary directions to execute settlements.

30. The provisions of this chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

CHAPTER III.

OF THE RECTIFICATION OF INSTRUMENTS.

When instrument may be rectified.

31. When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest, may institute a suit to have the instrument rectified; and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument, and ascertain the real intention of the parties in executing the same, the Court may in its discretion rectify the instrument, so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons, in good faith and for value.

Illustrations.

(*a*). A, intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included. Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud. The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(*b*). By a marriage-settlement, A, the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators and assigns, during A's life, an annuity of Rs. 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children, may rectify the settlement and decree that the assignee has no right to any part of the annuity.

Presumption as to intent of parties.

32. For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

Principles of rectification.

33. In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

Specific enforcement of rectified contract.

34. A contract in writing may be first rectified and then, if the plaintiff has so prayed in his plaint and the Court thinks fit, specifically enforced.

Illustration.

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs. The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks fit, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

CHAPTER IV.

OF THE RESCISSION OF CONTRACTS.

When rescission may be adjudged.

35. Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court in any of the following cases, namely:—

(*a*) where the contract is voidable or terminable by the plaintiff;

(*b*) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff;

(*c*) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him as such possessor.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract either so far as regards the party in default, or altogether, as the justice of the case may require.

Illustrations

to (*a*).—A sells a field to B. There is a right of way over the field of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (*b*).—A, an attorney, induces his client B, a Hindú widow, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

36. Rescission of a contract in writing cannot be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

Rescission for mistake.

37. A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the Court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

Alternative prayer for rescission in suit for specific performance.

38. On adjudging the rescission of a contract, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

Court may require party rescinding to do equity.

CHAPTER V.

OF THE CANCELLATION OF INSTRUMENTS.

39. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

When cancellation may be ordered.

If the instrument has been registered under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

Illustrations.

(*a*). A, the owner of a ship, by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(*b*). A conveys land to B, who bequeaths it to C and dies. Thereupon D gets possession of the land and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.

(*c*). A, representing that the tenants on his land were all at will, sells it to B, and conveys it to him by an instrument dated the 1st January 1877. Soon after that day, A fraudulently grants to C a lease of part of the lands dated the 1st October 1876, and procures the lease to be registered under the Indian Registration Act. B may obtain the cancellation of this lease.

(*d*). A agrees to sell and deliver a ship to B, to be paid for by B's acceptances of four bills of exchange, for sums amounting to Rs. 30,000, to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered, according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all the bills.

40. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part and allow it to stand for the residue.

What instruments may be partially cancelled.

Illustration.

A draws a bill on B, who endorses it to C, by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

41. On adjudging the cancellation of an instrument, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

Power to require party for whom instrument is cancelled to make compensation.

CHAPTER VI.

OF DECLARATORY DECREES.

42. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Discretion of Court as to declarations of status or right.

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

Bar to such declaration.

EXPLANATION.—A trustee of property is a 'person interested to deny' a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

Illustrations.

(*a*). A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(*b*). A bequeaths his property to B, C and D, 'to be equally divided amongst all and each of them, if living at the time of my death, then amongst their surviving children.' No such children are in existence. In a suit against A's executor, the Court may declare whether B, C and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

(*c*). A covenants that if he should at any time be entitled to property exceeding one lákh of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(*d*). A alienates to B property in which A has merely a life-interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(*e*). The widow of a sonless Hindú alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survive her, may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity and was therefore void beyond the widow's lifetime.

(*f*). A Hindú widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death without a son may, in a suit against the adopted son, obtain a declaration that the adoption was invalid.

(*g*). A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.

(*h*). A bequeaths property to B for his life, with remainder to B's wife and her children, if any, by B, but if B die without any wife or children, to C. B has a putative wife, D, and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C and obtain therein a declaration that they are truly the wife and children of B.

43. A declaration made under this chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

Effect of declaration.

Illustration.

A, a Hindú, in a suit to which B, his alleged wife, and her mother are defendants, seeks a declaration that his marriage was duly solemnized and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

CHAPTER VII.

OF THE APPOINTMENT OF RECEIVERS.

44. The appointment of a Receiver pending a suit is a matter resting in the discretion of the Court.

Appointment of receivers discretionary.

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

Reference to Code of Civil Procedure.

CHAPTER VIII.

OF THE ENFORCEMENT OF PUBLIC DUTIES.

45. Any of the High Courts of Judicature at Fort William, Madras and Bombay may make an order requiring any specific act to be done or forborne, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office, whether of a permanent or a temporary nature, or by any corporation or inferior Court of Judicature: provided—

Power to order public servants and others to do certain specific acts.

(*a*) that an application for such order be made by some person whose property, franchise, or personal right, would be injured by the forbearing or doing (as the case may be) of the said specific act;

(*b*) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character;

(*c*) that, in the opinion of the High Court, such doing or forbearing is consonant to right and justice;

(*d*) that the applicant has no other specific and adequate legal remedy; and

(*e*) that the remedy given by the order applied for will be complete.

Exemptions from such power.

Nothing in this section shall be deemed to authorize any High Court—

(*f*) to make any order binding on the Secretary of State for India in Council, on the Governor General in Council, on the Governor of Madras in Council, on the Governor of Bombay in Council, or on the Lieutenant-Governor of Bengal;

(*g*) to make any order on any other servant of the Crown, as such, merely to enforce the satisfaction of a claim upon the Crown; or

(*h*) to make any order which is otherwise expressly excluded by any law for the time being in force.

46. Every application under section 45 must be founded on an affidavit of the person injured, stating his right in the matter in question, his demand of justice and the denial thereof; and the High Court may, in its discretion, make the order applied for absolute in the first instance, or refuse it, or grant a rule to show cause why the order applied for should not be made.

Application how made.

Procedure thereon.

If, in the last case, the person, Court or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

Order in alternative.

47. If the person, Court or corporation to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act absolutely.

Peremptory order.

48. Every order under this chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

Execution of, and appeal from, orders.

49. The costs of all applications and orders under this chapter shall be in the discretion of the High Court.

Costs.

50. Neither the High Court nor any Judge thereof shall hereafter issue any writ of *mandamus*.

Bar to issue of *mandamus*.

51. Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure under this chapter; and until such rules are framed, the practice of such Court as to applications for and grants of writs of *mandamus* shall apply, so far as may be practicable, to applications and orders under this chapter.

Power to frame rules.

PART III.

OF PREVENTIVE RELIEF.

CHAPTER IX.

OF INJUNCTIONS GENERALLY.

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

Preventive relief how granted.

53. Temporary injunctions are such as are to continue until a specified time, or until the further order of the Court. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

Temporary injunctions.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit: the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

Perpetual injunctions.

CHAPTER X.

OF PERPETUAL INJUNCTIONS.

54. Subject to the other provisions contained in, or referred to by, this chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

Perpetual injunctions when granted.

When such obligation arises from contract, the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely):—

(*a*) where the defendant is trustee of the property for the plaintiff;

(*b*) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;

(*c*) where the invasion is such that pecuniary compensation would not afford adequate relief;

(*d*) where it is probable that pecuniary compensation cannot be got for the invasion;

(*e*) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

EXPLANATION.—For the purpose of this section a trademark is property.

Illustrations.

(*a*). A lets certain land to B, and B contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(*b*). A trustee threatens a breach of trust. His co-trustees if any, should, and the beneficial owners may, sue for an injunction to prevent the breach.

(*c*). The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may sue for an injunction to restrain them.

(*d*). The directors of a fire and life-insurance company are about to engage in marine insurances. Any of the shareholders may sue for an injunction to restrain them.

(*e*). A, an executor, through misconduct or insolvency, is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

(*f*). A, a trustee for B, is about to make an imprudent sale of a small part of the trust-property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(*g*). A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(*h*). In the course of A's employment as a vakíl, certain papers belonging to his client, B, come into his possession. A threatens to make these papers public, or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(*i*). A is B's medical adviser. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(*j*). A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from so doing.

(*k*). A lets certain arable lands to B for purposes of husbandry, but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(*l*). A, B and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership-property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(*m*). A, a Hindú widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir-expectant may sue for an injunction to restrain her.

(*n*). A, B and C are members of an undivided Hindú family. A cuts timber growing on the family-property, and threatens to destroy part of the family-house and to sell some of the family-utensils. B and C may sue for an injunction to restrain him.

(*o*). A, the owner of certain houses in Calcutta, becomes insolvent. B buys them from the official assignee and enters into possession. A persists in trespassing on and damaging the houses, and B is thereby compelled, at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(*p*). The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(*q*). A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(*r*). A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(*s*). A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(*t*). A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(*u*). A infringes B's patent. If the Court is satisfied that the patent is valid and has been infringed, B may obtain an injunction to restrain the infringement.

(*v*). A pirates B's copyright. B may obtain an injunction to restrain the piracy, unless the work of which copyright is claimed is libellous or obscene.

(*w*). A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(*x*). A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(*y*). A, a very eminent man, writes letters on family-topics to B. After the death of A and B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D, who is A's executor, has a property in the letters, and may sue for an injunction to restrain C from publishing them.

(*z*). A carries on a manufactory and B is his assistant. In the course of his business, A imparts to B a secret process of value. B afterwards demands money of A, threatening, in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process.

55. When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the Court is capable of enforcing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

Mandatory injunctions.

Illustrations.

(*a*). A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Indian Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(*b*). A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(*c*). In the case put as illustration (*i*) to section 54, the Court may also order all written communications made by B, as patient, to A, as medical adviser, to be destroyed.

(*d*). In the case put as illustration (*y*) to section 54, the Court may also order A's letters to be destroyed.

(*e*). A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Indian Penal Code. The Court may grant an injunction to restrain the publication, even though it may be shown not to be injurious to B's property.

(*f*). A, being B's medical adviser, threatens to publish B's written communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(*g*). In the cases put as illustrations (*v*) and (*w*) to section 54, and as illustrations (*e*) and (*f*) to this section, the Court may also order the copies produced by piracy, and the trademarks, statements and communications therein respectively mentioned, to be given up or destroyed.

56. An injunction cannot be granted—

Injunction when refused.

(*a*) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;

(*b*) to stay proceedings in a Court not subordinate to that from which the injunction is sought;

(*c*) to restrain persons from applying to any legislative body;

(*d*) to interfere with the public duties of any department of the Government of India or the Local Government, or with the sovereign acts of a Foreign Government;

(*e*) to stay proceedings in any criminal matter;

(*f*) to prevent the breach of a contract the performance of which would not be specifically enforced;

(*g*) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;

(*h*) to prevent a continuing breach in which the applicant has acquiesced;

(*i*) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust;

(*j*) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;

(*k*) where the applicant has no personal interest in the matter.

Illustrations.

(*a*). A seeks an injunction to restrain his partner, B, from receiving the partnership-debts and effects. It appears that A had improperly possessed himself of the books of the firm and refused B access to them. The Court will refuse the injunction.

(*b*). A manufactures and sells crucibles, designating them as "patent plumbago crucibles," though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(*c*). A sells an article called "Mexican Balm," stating that it is compounded of divers rare essences, and has sovereign medicinal qualities. B commences to sell a similar article to which he gives a name and description such as to lead people into the belief that they are buying A's Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A's Mexican Balm consists of nothing but scented hog's lard. A's use of his description is not an honest one, and he cannot obtain an injunction.

57. Notwithstanding section 56, clause (*f*), where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement, shall not preclude it from granting an injunction to perform the negative agreement; provided that the applicant has not failed to perform the contract so far as it is binding on him.

Injunctions to perform negative agreement.

Illustrations.

(*a*). A contracts to sell to B for Rs. 1,000 the good-will of a certain business unconnected with business-premises, and further agrees not to carry on that business in Calcutta. B pays A the Rs. 1,000, but A carries on the business in Calcutta. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Calcutta.

(*b*). A contracts to sell to B the good-will of a business. A then sets up a similar business close by B's shop, and solicits his old customers to deal with him. This is contrary to his implied contract, and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(*c*). A contracts with B to sing for twelve months at B's theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of public entertainment.

(*d*). B contracts with A that he will serve him faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival-house as clerk.

(*e*). A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance. B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

SCHEDULE.

(*See section* 2.)

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
VIII of 1859	Civil Procedure ...	Sections 15 and 192.
XIV of 1859	Limitation	Section 15.
XXIII of 1861	Civil Procedure ...	Section 26.
IX of 1872	Contract	In section 28, the second clause of Exception 1.

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

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 7th February 1877, and is hereby promulgated for general information :—

ACT I OF 1877.

THE SPECIFIC RELIEF ACT, 1877.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
3. Interpretation-clause.
4. Savings.
5. Specific relief how given.
6. Preventive relief.
7. Relief not granted to enforce penal law.

PART II.

OF SPECIFIC RELIEF.

CHAPTER I.

OF RECOVERING POSSESSION OF PROPERTY.

(*a*). *Possession of Immoveable Property.*

8. Recovery of specific immoveable property.
9. Suit by person dispossessed of immoveable property.

SECTIONS.

(*b*). *Possession of Moveable Property.*

10. Recovery of specific moveable property.
11. Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

CHAPTER II.

OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(*a*). *Contracts which may be specifically enforced.*

12. Cases in which specific performance enforceable.
13. Contracts of which the subject has partially ceased to exist.
14. Specific performance of part of contract where part unperformed is small.
15. Specific performance of part of a contract where the part unperformed is large.
16. Specific performance of independent part of a contract.
17. Bar in other cases of specific performance of part of contract.
18. Purchaser's rights against vendor with imperfect title.
19. Power to award compensation in certain cases.
20. Liquidation of damages not a bar to specific performance.

(*b*). *Contracts which cannot be specifically enforced.*

21. Contracts not specifically enforceable.

(*c*). *Of the Discretion of the Court.*

22. Discretion as to decreeing specific performance.

(*d*). *For whom Contracts may be specifically enforced.*

23. Who may obtain specific performance.

(*e*). *For whom Contracts cannot be specifically enforced.*

24. Personal bars to the relief.

SECTIONS.

25. Contracts to sell property by one who has no title, or who is a voluntary settler.

(*f*). *For whom Contracts cannot be specifically enforced, except with a variation.*

26. Non-enforcement except with variation.

(*g*). *Against whom Contracts may be specifically enforced.*

27. Relief against parties and persons claiming under them by subsequent title.

(*h*). *Against whom Contracts cannot be specifically enforced.*

28. What parties cannot be compelled to perform.

(*i*). *The Effect of dismissing a Suit for Specific Performance.*

29. Bar of suit for breach after dismissal.

(*j*). *Awards and Directions to execute Settlements.*

30. Application of preceding sections to awards and testamentary directions to execute settlements.

CHAPTER III.

OF THE RECTIFICATION OF INSTRUMENTS.

31. When instrument may be rectified.
32. Presumption as to intent of parties.
33. Principles of rectification.
34. Specific enforcement of rectified contract.

CHAPTER IV.

OF THE RESCISSION OF CONTRACTS.

35. When rescission may be adjudged.
36. Rescission for mistake.
37. Alternative prayer for rescission in suit for specific performance.
38. Court may require party rescinding to do equity.

CHAPTER V.

OF THE CANCELLATION OF INSTRUMENTS.

39. When cancellation may be ordered.
40. What instruments may be partially cancelled.
41. Power to require party for whom instrument is cancelled to make compensation.

CHAPTER VI.

OF DECLARATORY DECREES.

42. Discretion of Court as to declarations of status, or right.
Bar to such declaration.
43. Effect of declaration.

CHAPTER VII.

OF THE APPOINTMENT OF RECEIVERS.

44. Appointment of Receivers discretionary.
Reference to Code of Civil Procedure.

CHAPTER VIII.

OF THE ENFORCEMENT OF PUBLIC DUTIES.

45. Power to order public servants and others to do certain specific acts.
Exemptions from such power.

SECTIONS.

46. Application how made.
Procedure thereon.
Order in alternative.
47. Peremptory order.
48. Execution of, and appeal from, orders.
49. Costs.
50. Bar to issue of *mandamus*.
51. Power to frame rules.

PART III.

OF PREVENTIVE RELIEF.

CHAPTER IX.

OF INJUNCTIONS GENERALLY.

52. Preventive relief how granted.
53. Temporary injunctions.
Perpetual injunctions.

CHAPTER X.

OF PERPETUAL INJUNCTIONS.

54. Perpetual injunctions when granted.
55. Mandatory injunctions.
56. Injunction when refused.
57. Injunction to perform negative agreement.

SCHEDULE.—Enactments repealed.

An Act to define and amend the Law relating to certain kinds of Specific Relief.

WHEREAS it is expedient to define and amend the law relating to certain kinds of specific relief obtainable in civil suits; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Specific Relief Act, 1877:" Short title.

It extends to the whole of British India, except the Scheduled Districts as defined in Act No. XIV of 1874; Local extent.

And it shall come into force on the first day of May 1877. Commencement.

2. On and from that day the Acts specified in the schedule hereto annexed shall be repealed to the extent mentioned in its third column. Repeal of enactments.

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

'obligation' includes every duty enforceable by law: 'obligation.'

'trust' includes every species of express, implied, or constructive fiduciary ownership: 'trust.'

'trustee' includes every person holding, expressly, by implication, or constructively, a fiduciary character: 'trustee.'

Illustrations.

(*a*). Z bequeaths land to A, 'not doubting that he will pay thereout an annuity of Rs. 1,000 to B for his life.' A accepts the bequest. A is a trustee within the meaning of this Act for B to the extent of the annuity.

(*b*). A is the legal, medical, or spiritual adviser of B. By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee for B within the meaning of this Act of such advantage.

(*c*). A, being B's banker, discloses for his own purpose the state of B's account. A is a trustee within the meaning of this Act for B of the benefit gained by him by means of such disclosure.

(*d*). A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee within the meaning of this Act of the renewed lease for those interested in the original lease.

(*e*). A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee, for his co-partners, within the meaning of this Act of the profit so made.

(*f*). A, the manager of B's indigo factory, becomes agent for C, a vendor of indigo-seed, and receives, without B's assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(*g*). A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, for B, of the land so bought.

(*h*). A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act, for C, to the extent of that interest.

'settlement' means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of: 'settlement.'

and all words occurring in this Act, which are defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively assigned to them by that Act. Words defined in Contract Act.

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed— Savings.

(*a*) to give any right to relief in respect of any agreement which is not a contract;

(*b*) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or

(*c*) to affect the operation of the Indian Registration Act on documents.

5. Specific relief is given— Specific relief how given.

(*a*) by taking possession of certain property and delivering it to a claimant;

(*b*) by ordering a party to do the very act which he is under an obligation to do;

(*c*) by preventing a party from doing that which he is under an obligation not to do;

(*d*) by determining and declaring the rights of parties otherwise than by an award of compensation; or

(*e*) by appointing a Receiver.

6. Specific relief granted under clause (*c*) of section 5 is called preventive relief. Preventive relief.

7. Specific relief cannot be granted for the mere purpose of enforcing a penal law. Relief not granted to enforce penal law.

PART II.

OF SPECIFIC RELIEF.

CHAPTER I.

OF RECOVERING POSSESSION OF PROPERTY.

(*a*).—*Possession of Immoveable Property.*

8. A person entitled to the possession of specific immoveable property may recover it in the manner prescribed by the Code of Civil Procedure. Recovery of specific immoveable property.

9. If any person is dispossessed without his consent of immoveable property otherwise than in due course of law, he or any person claiming through him may, by suit instituted within six months from the date of the dispossession, recover possession thereof, notwithstanding any other title that may be set up in such suit. Suit by person dispossessed of immoveable property.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(*b*). *Possession of Moveable Property.*

10. A person entitled to the possession of specific moveable property may recover the same in the manner prescribed by the Code of Civil Procedure. Recovery of specific moveable property.

EXPLANATION 1.—A trustee may sue under this section for the possession of property to the beneficial interest in which the person for whom he is trustee is entitled.

EXPLANATION 2.—A special or temporary right to the present possession of property is sufficient to support a suit under this section.

Illustrations.

(*a*). A bequeaths land to B for his life, with remainder to C. A dies. B enters on the land, but C, without B's consent, obtains possession of the title-deeds. B may recover them from C.

(*b*). A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession, whatever right he may have to secure their safe custody.

(*c*). A receives a letter addressed to him by B. B gets back the letter without A's consent. A has such a property therein as entitles him to recover it from B.

(*d*). A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under section 168 of the Indian Contract Act, 1872.

(*e*). A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

11. Any person having the possession or control of a particular article of moveable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:— Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

(*a*) when the thing claimed is held by the defendant as the agent or trustee of the claimant;

(*b*) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed;

(*c*) when it would be extremely difficult to ascertain the actual damage caused by its loss;

(*d*) when the possession of the thing claimed has been wrongfully transferred from the claimant.

Illustrations

of clause (*a*).—A, proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B, without A's authority, pledges the furniture to C, and C, knowing that B had no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee.

of clause (*b*).—Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver the idol to A.

of clause (*c*).—A is entitled to a picture by a dead painter and a pair of rare China vases. B has possession of them. The articles are of too special a character to bear an ascertainable market-value. B may be compelled to deliver them to A.

CHAPTER II.

OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(*a*). *Contracts which may be specifically enforced.*

Cases in which specific performance enforceable.

12. Except as otherwise provided in this chapter, the specific performance of any contract may in the discretion of the Court be enforced—

(*a*) when the act agreed to be done is in the performance, wholly or partly, of a trust;

(*b*) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done;

(*c*) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief; or

(*d*) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

EXPLANATION.—Unless and until the contrary is proved, the Court shall presume that the breach of a contract to transfer immoveable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved.

Illustrations

of clause (*a*).—A holds certain stock in trust for B. A wrongfully disposes of the stock. The law creates an obligation on A to restore the same quantity of stock to B, and B may enforce specific performance of this obligation.

of clause (*b*).—A agrees to buy, and B agrees to sell, a picture by a dead painter and two rare China vases. A may compel B specifically to perform this contract, for there is no standard for ascertaining the actual damage which would be caused by its non-performance.

of clause (*c*).—A contracts with B to sell him a house for Rs. 1,000. B is entitled to a decree directing A to convey the house to him, he paying the purchase-money.

In consideration of being released from certain obligations imposed on it by its Act of incorporation, a railway company contract with Z to make an archway through their railway to connect lands of Z severed by the railway, to construct a road between certain specified points, to pay a certain annual sum towards the maintenance of this road, and also to construct a siding and a wharf as specified in the contract. Z is entitled to have this contract specifically enforced, for his interest in its performance cannot be adequately compensated for by money; and the Court may appoint a proper person to superintend the construction of the archway, road, siding and wharf.

A contracts to sell, and B contracts to buy, a certain number of railway-shares of a particular description. A refuses to complete the sale. B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder, which cannot otherwise be procured.

A contracts with B to paint a picture for B, who agrees to pay therefor Rs. 1,000. The picture is painted. B is entitled to have it delivered to him on payment or tender of the Rs. 1,000.

of clause (*d*).—A transfers without endorsement, but for valuable consideration, a promissory note to B. A becomes insolvent, and C is appointed his assignee. B may compel C to endorse the note, for C has succeeded to A's liabilities, and a decree for pecuniary compensation for not endorsing the note would be fruitless.

Contracts of which the subject has partially ceased to exist.

13. Notwithstanding anything contained in section 56 of the Indian Contract Act, a contract is not wholly impossible of performance, because a portion of its subject-matter existing at its date has ceased to exist at the time of the performance.

Illustrations.

(*a*). A contracts to sell a house to B for a lákh of rupees. The day after the contract is made, the house is destroyed by a cyclone. B may be compelled to perform his part of the contract by paying the purchase-money.

(*b*). In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been made, B is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

Specific performance of part of contract where part unperformed is small.

14. Where a party to a contract is unable to perform the whole of his part of it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

Illustrations.

(*a*). A contracts to sell B a piece of land consisting of 100 bíghás. It turns out that 98 bíghás of the land belong to A, and the two remaining bíghás to a stranger, who refuses to part with them. The two bíghás are not necessary for the use or enjoyment of the 98 bíghás, nor so important for such use or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 bíghás and to make compensation to him for not conveying the two remaining bíghás; or B may be directed, at the suit of A, to pay to A on receiving the conveyance and possession of the land, the stipulated purchase-money, less a sum awarded as compensation for the deficiency.

(*b*). In a contract for the sale and purchase of a house and lands for two lákhs of rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

Specific performance of part of a contract where the part unperformed is large.

15. Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, he is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, provided that the plaintiff relinquishes all claim to further performance, and all right to compensation, either for the deficiency, or for the loss or damage sustained by him through the default of the defendant.

Illustrations.

(*a*). A contracts to sell to B a piece of land consisting of 100 bíghás. It turns out that 50 bíghás of the land belong to A, and the other 50 bíghás to a stranger, who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 bíghás which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree directing A to convey those 50 bíghás to him on payment of the purchase-money.

(*b*). A contracts to sell to B an estate with a house and garden for a lákh of rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree, directing A to convey the house to him on payment of the purchase-money.

Specific performance of independent part of a contract.

16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.

Bar in other cases of specific performance of part of contract.

17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other of the three last preceding sections.

Purchaser's rights against vendor with imperfect title.

18. Where a person contracts to sell or let certain property, having only an imperfect title thereto, the purchaser or lessee (except as otherwise provided by this chapter) has the following rights:—

(*a*) if the vendor or lessor has subsequently to the sale or lease acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;

(*b*) where the concurrence of other persons is necessary to validate the title, and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence;

(*c*) where the vendor professes to sell unincumbered property, but the property is mortgaged for an amount not exceeding the purchase-money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and to obtain a conveyance from the mortgagee;

(*d*) where the vendor or lessor sues for specific performance of the contract, and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to his costs of the suit, and to a lien for such deposit, interest and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

Power to award compensation in certain cases.

19. Any person suing for the specific performance of a contract, may also ask for compensation for its breach, either in addition to, or in substitution for, such performance.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any such suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

EXPLANATION.—The circumstance that the contract has become incapable of specific performance, does not preclude the Court from exercising the jurisdiction conferred by this section.

Illustrations

of the second paragraph:—A contracts to sell a hundred maunds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion that A has made a valid contract and has broken it, without excuse, to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph:—A contracts with B to sell him a house for Rs. 1,000, the price to be paid and the possession given on the 1st January 1877. A fails to perform his part of the contract, and B brings his suit for specific performance and compensation, which is decided in his favour on the 1st January 1878. The decree may, besides ordering specific performance, award to B compensation for any loss which he has sustained by A's refusal.

of the Explanation:—A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent. Before the hearing of the suit, the patent expires. The Court may award A compensation for the non-performance of the contract and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him, and for compensation for the non-performance of the resolution. All the shares had been allotted before the institution of the suit. The Court may, under this section, award A compensation for the non-performance.

Liquidation of damages not a bar to specific performance.

20. A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

Illustration.

A contracts to grant B an underlease of property held by A under C, and that he will apply to C for a license necessary to the validity of the underlease and that, if the license is not procured, A will pay B Rs. 10,000. A refuses to apply for the license and offers to pay B the Rs. 10,000. B is nevertheless entitled to have the contract specifically enforced if C consents to give the license.

(*b*). *Contracts which cannot be specifically enforced.*

Contracts not specifically enforceable.

21. The following contracts cannot be specifically enforced:—

(*a*) a contract for the non-performance of which compensation in money is an adequate relief;

(*b*) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms;

(*c*) a contract the terms of which the Court cannot find with reasonable certainty;

(*d*) a contract which is in its nature revocable;

(*e*) a contract made by trustees either in excess of their powers or in breach of their trust;

(*f*) a contract made by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers;

(*g*) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date;

(*h*) a contract of which a material part of the subject-matter, supposed by both parties, to exist has, before it has been made, ceased to exist.

And save as provided by the Code of Civil Procedure, no contract to refer a controversy to arbitration shall be specifically enforced; but if any person who has made such a contract and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

Illustrations

to (*a*).—A contracts to sell, and B contracts to buy, a lákh of rupees in the four per cent. loan of the Government of India.

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rs. 1,000 per chest.

In consideration of certain property having been transferred by A to B, B contracts to open a credit in A's favour to the extent of Rs. 10,000, and to honour A's drafts to that amount.

The above contracts cannot be specifically enforced, for, in the first and the second both A and B, and in the third A would be reimbursed by compensation in money.

to (*b*).—A contracts to render personal service to B:

A contracts to employ B on personal service:

A, an author, contracts with B, a publisher, to complete a literary work.

B cannot enforce specific performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made, A instructs his valuer not to proceed.

By a charter party entered into in Calcutta between A, the owner of a ship, and B, the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London.

A lets land to B and B contracts to cultivate it in a particular manner for three years next after the date of the lease.

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contract grow particular crops on the land in his possession and deliver them to A when cut and ready for delivery.

A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B, he will paint a picture for B.

A contracts with B to execute certain works which the Court cannot superintend.

A contracts to supply B with all the goods of a certain class which B may require.

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, "if the drawing-room is handsomely decorated," even if it is held to have so much certainty that compensation can be recovered for its breach.

A contracts to marry B.

The above contracts cannot be specifically enforced.

to (*c*).—A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (*d*).—A and B contract to become partners in a certain business, the contract not specifying the duration of the proposed partnership. This contract cannot be specifically performed, for, if it were so performed, either A or B might at once dissolve the partnership.

to (*e*).—A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a covenant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced.

Two trustees, A and B, empowered to sell trust-property worth a lákh of rupees, contract to sell it to C for Rs. 30,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property and in fact agree to pay an extravagant price therefor. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (*f*).—A company existing for the sole purpose of making and working a railway, contracts for the purchase of a piece of land for the purpose of erecting a cotton-mill thereon. This contract cannot be specifically enforced.

to (*g*).—A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land, and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

to (*h*).—A contracts to pay an annuity to B for the lives of C and D. It turns out that, at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

(*c*). *Of the Discretion of the Court.*

Discretion as to decreeing specific performance.

22. The jurisdiction to decree specific performance is discretionary, and the Court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the Court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:—

I. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

Illustrations.

(*a*). A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy, and B contracts to sell, that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance of the contract. If B knew the fact, and C did not, specific performance of the contract should be refused to B.

(*b*). A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact the value of C's interest depends on the result of certain partnership-accounts, on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(*c*). A contracts to sell, and B contracts to buy, certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance of the contract should be refused to A.

(*d*). A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present seeing the vendor's attorney bidding, think that he is a mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance of the contract should be refused to B.

II. Where the performance of the contract would involve some hardship on the defendant which he did not foresee, whereas its non-performance would involve no such hardship on the plaintiff.

Illustrations.

(*e*). A is entitled to some land under his father's will on condition that, if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty-five years, to sell the land to C. Here, the enforcement of the contract would operate so harshly on A, that the Court will not compel its specific performance in favour of C.

(*f*). A and B, trustees, join their beneficiary, C, in a contract to sell the trust-estate to D, and personally agree to exonerate the estate from heavy incumbrances to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(*g*). A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, shall not be obliged to define its boundary. The estate really comprises a valuable property not known to either to be part of it. Specific performance of the contract should be refused to B, unless he waives his claim to the unknown property.

(*h*). A contracts with B to sell him certain land, and to make a road to it from a certain railway-station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest with compensation for loss of the road.

(*i*). A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used in and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance of it should be refused to B.

(*j*). A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(*k*). A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods, but if he does not supply them, A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the contract should be refused to B.

III. Where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

Illustration.

A sells land to a railway company who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should be decreed in favour of A.

(*d*). *For whom Contracts may be specifically enforced.*

Who may obtain specific performance.

23. Except as otherwise provided by this chapter, the specific performance of a contract may be obtained by—

(*a*) any party thereto;

(*b*) the representative in interest, or the principal, of any party thereto: provided that, where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless where his part thereof has already been performed;

(*c*) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder;

(*d*) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;

(*e*) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;

(*f*) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;

(*g*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(*h*) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(*e*). *For whom Contracts cannot be specifically enforced.*

Personal bars to the relief.

24. Specific performance of a contract cannot be enforced in favour of a person—

(*a*) who could not recover compensation for its breach;

(*b*) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed; or

(*c*) who has already chosen his remedy and obtained satisfaction for the alleged breach of contract;

(*d*) who, previously to the contract had notice that a settlement of the subject-matter thereof, (though not founded on any valuable consideration) had been made and was then in force.

Illustrations

to clause (*a*).—A, in the character of agent for B, enters into an agreement with C to buy C's house. A is in reality acting, not as agent for B, but on his own account. A cannot enforce specific performance of this contract.

to clause (*b*).—A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, fells the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner: he cannot enforce the contract specifically, though A and B may sue each other for compensation for breach of it.

to clause (*c*).—A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract. A thereupon sues for, and obtains, compensation for the breach. A cannot obtain specific performance of the contract.

25. A contract for the sale or letting of property, whether moveable or immoveable, cannot be specifically enforced in favour of a vendor or lessor—

Contracts to sell property by one who has no title, or who is a voluntary settler.

(*a*) who, knowing himself not to have any title to the property, has contracted to sell or let the same;

(*b*) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt;

(*c*) who, previous to entering into the contract, has made a settlement (though not founded on any valuable consideration) of the subject-matter of the contract.

Illustrations.

(*a*). A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract, even though C is willing to confirm it.

(*b*). A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce this contract, as, in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(*c*). A, being in possession of certain land, contracts to sell it to Z. On enquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(*d*). A, out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A cannot enforce specific performance of this contract so as to override the settlement, and thus prejudice the interests of the persons claiming under it.

(*f*). *For whom Contracts cannot be specifically enforced except with a variation.*

26. Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases (namely):—

Non-enforcement except with variation.

(*a*) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;

(*b*) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;

(*c*) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part, which adds to the contract, but which he refuses to fulfil;

(*d*) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;

(*e*) where the parties have, subsequently to the execution of the contract, contracted to vary it.

Illustrations.

(*a*). A, B and C sign a writing by which they purport to contract each to enter into a bond to D for Rs. 1,000. In a suit by D, to make A, B and C separately liable each to the extent of Rs. 1,000, they prove that the word 'each' was inserted by mistake; that the intention was that they should give a joint bond for Rs. 1,000. A can obtain the performance sought only with the variation thus set up.

(*b*). A sues B to compel specific performance of a contract in writing to buy a dwelling-house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was so included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(*c*). A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions, and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the written contract, except with the variation set up by B.

(*d*). A and B enter into negotiations for the purpose of securing land to B for his life, with remainder to his issue. They execute a contract the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(*e*). A contracts in writing to let a house to B, for a certain term, at the rent of Rs. 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place: B contracting orally to pay rent at Rs. 120 per mensem. B then sues to enforce specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(*g*). *Against whom Contracts may be specifically enforced.*

27. Except as otherwise provided by this chapter, specific performance of a contract may be enforced against—

Relief against parties and persons claiming under them by subsequent title.

(*a*) either party thereto;

(*b*) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;

(*c*) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;

(*d*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(*e*) when the promoters of a public company have, before its incorporation, entered into a contract, the company: provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

Illustrations

to clause (*b*).—A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rs. 5,000. A afterwards conveys the land for Rs. 6,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rs. 5,000. B takes possession of the land. Afterwards A sells it to C for Rs. 6,000. C makes no enquiry of B relating to his interest in the land. B's possession is sufficient to affect C with notice of his interest, and he may enforce specific performance of the contract against C.

A contracts in consideration of Rs. 1,000, to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce specific performance of the contract against C.

A contracts to sell certain land to B. Before the completion of the contract, A becomes a lunatic and C is appointed his committee. B may specifically enforce the contract against C.

to clause (*c*).—A, the tenant for life of an estate, with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alien in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.

(*h*). *Against whom Contracts cannot be specifically enforced.*

28. Specific performance of a contract cannot be enforced against a party thereto in any of the following cases:—

What parties cannot be compelled to perform.

(*a*) if the consideration to be received by him is so grossly inadequate, with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud or of undue advantage taken by the plaintiff;

(*b*) if his assent was obtained by the misrepresentation (whether wilful or innocent), concealment, circumvention, or unfair practices, of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled;

(*c*) if his assent was given under the influence of mistake of fact, misapprehension or surprise: Provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision and the contract may be specifically enforced in other respects if proper to be so enforced.

Illustrations

to clause (*c*).—A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 20 bighás of this land, but the auctioneer inadvertently sells the whole to B, who has not notice of the revocation. B cannot enforce specific performance of the agreement.

(*i*). *The Effect of dismissing a Suit for Specific Performance.*

29. The dismissal of a suit for specific performance of a contract or part thereof shall bar the plaintiff's right to sue for compensation for the breach of such contract or part, as the case may be.

Bar of suit for breach after dismissal.

(*j*). *Awards and Directions to execute Settlements.*

30. The provisions of this chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

Application of preceding sections to awards and testamentary directions to execute settlements.

CHAPTER III.

OF THE RECTIFICATION OF INSTRUMENTS.

31. When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest, may institute a suit to have the instrument rectified; and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument, and ascertain the real intention of the parties in executing the same, the Court may in its discretion rectify the instrument, so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons, in good faith and for value.

When instrument may be rectified.

Illustrations.

(*a*). A, intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included. Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud. The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(*b*). By a marriage-settlement, A, the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators and assigns, during A's life, an annuity of Rs. 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children, may rectify the settlement and decree that the assignee has no right to any part of the annuity.

32. For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

Presumption as to intent of parties.

33. In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

Principles of rectification.

34. A contract in writing may be first rectified and then, if the plaintiff has so prayed in his plaint and the Court thinks fit, specifically enforced.

Specific enforcement of rectified contract.

Illustration.

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs. The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks fit, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

CHAPTER IV.

OF THE RESCISSION OF CONTRACTS.

35. Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court in any of the following cases, namely:—

When rescission may be adjudged.

(*a*) where the contract is voidable or terminable by the plaintiff;

(*b*) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff;

(*c*) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him as such possessor.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract either so far as regards the party in default, or altogether, as the justice of the case may require.

Illustrations

to (*a*).—A sells a field to B. There is a right of way over the field of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (*b*).—A, an attorney, induces his client B, a Hindú widow, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

Rescission for mistake.

36. Rescission of a contract in writing cannot be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

Alternative prayer for rescission in suit for specific performance.

37. A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the Court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

Court may require party rescinding to do equity.

38. On adjudging the rescission of a contract, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

CHAPTER V.

OF THE CANCELLATION OF INSTRUMENTS.

When cancellation may be ordered.

39. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

If the instrument has been registered under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

Illustrations.

(*a*). A, the owner of a ship, by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(*b*). A conveys land to B, who bequeaths it to C and dies. Thereupon D gets possession of the land and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.

(*c*). A, representing that the tenants on his land were all at will, sells it to B, and conveys it to him by an instrument dated the 1st January 1877. Soon after that day, A fraudulently grants to C a lease of part of the lands dated the 1st October 1876, and procures the lease to be registered under the Indian Registration Act. B may obtain the cancellation of this lease.

(*d*). A agrees to sell and deliver a ship to B, to be paid for by B's acceptances of four bills of exchange, for sums amounting to Rs. 30,000, to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered, according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all the bills.

What instruments may be partially cancelled.

40. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part and allow it to stand for the residue.

Illustration.

A draws a bill on B, who endorses it to C, by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

Power to require party for whom instrument is cancelled to make compensation.

41. On adjudging the cancellation of an instrument, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

CHAPTER VI.

OF DECLARATORY DECREES.

Discretion of Court as to declarations of status or right.

42. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Bar to such declaration.

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

EXPLANATION.—A trustee of property is a 'person interested to deny' a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

Illustrations.

(*a*). A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(*b*). A bequeaths his property to B, C and D, 'to be equally divided amongst all and each of them, if living at the time of my death, then amongst their surviving children.' No such children are in existence. In a suit against A's executor, the Court may declare whether B, C and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

(*c*). A covenants that if he should at any time be entitled to property exceeding one lákh of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(*d*). A alienates to B property in which A has merely a life-interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(*e*). The widow of a sonless Hindú alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survive her, may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity and was therefore void beyond the widow's lifetime.

(*f*). A Hindú widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death without a son may, in a suit against the adopted son, obtain a declaration that the adoption was invalid.

(*g*). A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.

(*h*). A bequeaths property to B for his life, with remainder to B's wife and her children, if any, by B, but if B die without any wife or children, to C. B has a putative wife, D, and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C and obtain therein a declaration that they are truly the wife and children of B.

Effect of declaration.

43. A declaration made under this chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

Illustration.

A, a Hindú, in a suit to which B, his alleged wife, and her mother are defendants, seeks a declaration that his marriage was duly solemnized and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

CHAPTER VII.

OF THE APPOINTMENT OF RECEIVERS.

Appointment of receivers discretionary.

44. The appointment of a Receiver pending a suit is a matter resting in the discretion of the Court.

Reference to Code of Civil Procedure.

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

CHAPTER VIII.

OF THE ENFORCEMENT OF PUBLIC DUTIES.

Power to order public servants and others to do certain specific acts.

45. Any of the High Courts of Judicature at Fort William, Madras and Bombay may make an order requiring any specific act to be done or forborne, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office, whether of a permanent or a temporary nature, or by any corporation or inferior Court of Judicature: provided—

(*a*) that an application for such order be made by some person whose property, franchise, or personal right, would be injured by the forbearing or doing (as the case may be) of the said specific act;

(*b*) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character;

(*c*) that, in the opinion of the High Court, such doing or forbearing is consonant to right and justice;

(*d*) that the applicant has no other specific and adequate legal remedy; and

(*e*) that the remedy given by the order applied for will be complete.

Exemptions from such power.

Nothing in this section shall be deemed to authorize any High Court—

(*f*) to make any order binding on the Secretary of State for India in Council, on the Governor General in Council, on the Governor of Madras in Council, on the Governor of Bombay in Council, or on the Lieutenant-Governor of Bengal;

(*g*) to make any order on any other servant of the Crown, as such, merely to enforce the satisfaction of a claim upon the Crown; or

(*h*) to make any order which is otherwise expressly excluded by any law for the time being in force.

Application how made.

46. Every application under section 45 must be founded on an affidavit of the person injured, stating his right in the matter in question, his demand of justice and the denial thereof; and the High Court may, in its discretion, make the order applied for absolute in the first instance, or refuse it, or grant a rule to show cause why the order applied for should not be made.

Procedure thereon.

Order in alternative.

If, in the last case, the person, Court or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

Peremptory order.

47. If the person, Court or corporation to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act absolutely.

Execution of, and appeal from, orders.

48. Every order under this chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

Costs.

49. The costs of all applications and orders under this chapter shall be in the discretion of the High Court.

Bar to issue of *mandamus*.

50. Neither the High Court nor any Judge thereof shall hereafter issue any writ of *mandamus*.

Power to frame rules.

51. Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure under this chapter; and until such rules are framed, the practice of such Court as to applications for and grants of writs of *mandamus* shall apply, so far as may be practicable, to applications and orders under this chapter.

PART III.

OF PREVENTIVE RELIEF.

CHAPTER IX.

OF INJUNCTIONS GENERALLY.

Preventive relief how granted.

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

53. Temporary injunctions are such as are to continue until a specified time, or until the further order of the Court. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

Temporary injunctions.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit: the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

Perpetual injunctions.

CHAPTER X.

OF PERPETUAL INJUNCTIONS.

54. Subject to the other provisions contained in, or referred to by, this chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

Perpetual injunctions when granted.

When such obligation arises from contract, the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely):—

(*a*) where the defendant is trustee of the property for the plaintiff;

(*b*) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;

(*c*) where the invasion is such that pecuniary compensation would not afford adequate relief;

(*d*) where it is probable that pecuniary compensation cannot be got for the invasion;

(*e*) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

EXPLANATION.—For the purpose of this section a trademark is property.

Illustrations.

(*a*). A lets certain land to B, and B contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(*b*). A trustee threatens a breach of trust. His co-trustees if any, should, and the beneficial owners may, sue for an injunction to prevent the breach.

(*c*). The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may sue for an injunction to restrain them.

(*d*). The directors of a fire and life-insurance company are about to engage in marine insurances. Any of the shareholders may sue for an injunction to restrain them.

(*e*). A, an executor, through misconduct or insolvency, is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

(*f*). A, a trustee for B, is about to make an imprudent sale of a small part of the trust-property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(*g*). A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(*h*). In the course of A's employment as a vakíl, certain papers belonging to his client, B, come into his possession. A threatens to make these papers public, or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(*i*). A is B's medical adviser. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(*j*). A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from so doing.

(*k*). A lets certain arable lands to B for purposes of husbandry, but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(*l*). A, B and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership-property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(*m*). A, a Hindú widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir-expectant may sue for an injunction to restrain her.

(*n*). A, B and C are members of an undivided Hindú family. A cuts timber growing on the family-property, and threatens to destroy part of the family-house and to sell some of the family-utensils. B and C may sue for an injunction to restrain him.

(*o*). A, the owner of certain houses in Calcutta, becomes insolvent. B buys them from the official assignee and enters into possession. A persists in trespassing on and damaging the houses, and B is thereby compelled, at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(*p*). The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(*q*). A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(*r*). A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(*s*). A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(*t*). A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(*u*). A infringes B's patent. If the Court is satisfied that the patent is valid and has been infringed, B may obtain an injunction to restrain the infringement.

(*v*). A pirates B's copyright. B may obtain an injunction to restrain the piracy, unless the work of which copyright is claimed is libellous or obscene.

(*w*). A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(*x*). A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(*y*). A, a very eminent man, writes letters on family-topics to B. After the death of A and B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D, who is A's executor, has a property in the letters, and may sue for an injunction to restrain C from publishing them.

(*z*). A carries on a manufactory and B is his assistant. In the course of his business, A imparts to B a secret process of value. B afterwards demands money of A, threatening, in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process.

55. When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the Court is capable of enforcing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

Mandatory injunctions.

Illustrations.

(*a*). A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Indian Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(*b*). A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(*c*). In the case put as illustration (*i*) to section 54, the Court may also order all written communications made by B, as patient, to A, as medical adviser, to be destroyed.

(*d*). In the case put as illustration (*y*) to section 54, the Court may also order A's letters to be destroyed.

(*e*). A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Indian Penal Code. The Court may grant an injunction to restrain the publication, even though it may be shown not to be injurious to B's property.

(*f*). A, being B's medical adviser, threatens to publish B's written communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(*g*). In the cases put as illustrations (*v*) and (*w*) to section 54, and as illustrations (*e*) and (*f*) to this section, the Court may also order the copies produced by piracy, and the trademarks, statements and communications therein respectively mentioned, to be given up or destroyed.

56. An injunction cannot be granted—

Injunction when refused.

(*a*) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;

(*b*) to stay proceedings in a Court not subordinate to that from which the injunction is sought;

(*c*) to restrain persons from applying to any legislative body;

(*d*) to interfere with the public duties of any department of the Government of India or the Local Government, or with the sovereign acts of a Foreign Government;

(*e*) to stay proceedings in any criminal matter;

(*f*) to prevent the breach of a contract the performance of which would not be specifically enforced;

(*g*) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;

(*h*) to prevent a continuing breach in which the applicant has acquiesced;

(*i*) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust;

(*j*) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;

(*k*) where the applicant has no personal interest in the matter.

Illustrations.

(*a*). A seeks an injunction to restrain his partner, B, from receiving the partnership-debts and effects. It appears that A had improperly possessed himself of the books of the firm and refused B access to them. The Court will refuse the injunction.

(*b*). A manufactures and sells crucibles, designating them as "patent plumbago crucibles," though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(*c*). A sells an article called "Mexican Balm," stating that it is compounded of divers rare essences, and has sovereign medicinal qualities. B commences to sell a similar article to which he gives a name and description such as to lead people into the belief that they are buying A's Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A's Mexican Balm consists of nothing but scented hog's lard. A's use of his description is not an honest one, and he cannot obtain an injunction.

57. Notwithstanding section 56, clause (*f*), where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement, shall not preclude it from granting an injunction to perform the negative agreement; provided that the applicant has not failed to perform the contract so far as it is binding on him.

Injunctions to perform negative agreement.

Illustrations.

(*a*). A contracts to sell to B for Rs. 1,000 the good-will of a certain business unconnected with business-premises, and further agrees not to carry on that business in Calcutta. B pays A the Rs. 1,000, but A carries on the business in Calcutta. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Calcutta.

(*b*). A contracts to sell to B the good-will of a business. A then sets up a similar business close by B's shop, and solicits his old customers to deal with him. This is contrary to his implied contract, and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(*c*). A contracts with B to sing for twelve months at B's theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of public entertainment.

(*d*). B contracts with A that he will serve him faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival-house as clerk.

(*e*). A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance. B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

SCHEDULE.

(*See section* 2.)

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
VIII of 1859	Civil Procedure ...	Sections 15 and 192.
XIV of 1859	Limitation	Section 15.
XXIII of 1861	Civil Procedure ...	Section 26.
IX of 1872	Contract	In section 28, the second clause of Exception 1.

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

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th February 1877, and is hereby promulgated for general information :—

ACT No. II OF 1877.

An Act to amend Act No. XIII of 1875.

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

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

2. Nothing in this Act shall be deemed to affect the validity of any grant of probate or letters of administration with effect throughout the whole of British India heretofore made by any Court other than the Courts specified in section one. Saving of certain grants of probate and administration.

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

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th February 1877, and is hereby promulgated for general information :—

ACT No. III OF 1877.

THE INDIAN REGISTRATION ACT, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4. Inspector General of Registration.
Branch Inspector General of Sindh.
5. Districts and Sub-Districts.
6. Registrars and Sub-Registrars.
7. Offices of Registrar and Sub-Registrar.
8. Inspectors of Registration Offices.
9. Military Cantonments may be declared Sub-Districts or Districts.
10. Absence of Registrar from his District or vacancy in his office.
11. Absence of Registrar on duty in his District.
12. Absence of Sub-Registrar or vacancy in his office.
13. Appointments under section 10, 11 or 12 to be reported to Government.
Suspension, removal and dismissal of Officers.
14. Remuneration and establishments of registering officers.
15. Seals of registering officers.
16. Register-books.
Forms.
Fire-proof boxes.

PART III.

OF REGISTRABLE DOCUMENTS.

17. Documents of which registration is compulsory.
Exception of composition-deeds;
and of transfers of shares and debentures in Land Companies.
Authorities to adopt.
18. Documents of which registration is optional.
19. Documents in language not understood by registering officer.
20. Documents containing interlineations, blanks, erasures or alterations.
21. Description of parcels.
Documents containing maps or plans.
22. Failure to comply with rules as to description of houses and land.

PART IV.

OF THE TIME OF PRESENTATION.

23. Time for presenting documents.
24. Provision where delay in presentation is unavoidable.
25. Documents executed out of British India.
26. Provision where office is closed on last day of period for presentation.
27. Wills may be presented or deposited at any time.

PART V.

OF THE PLACE OF REGISTRATION.

28. Place for registering documents relating to land.
29. Place for registering other documents.
30. Registration by Registrar.
Registration by Registrar at Presidency Town.
31. Registration or acceptance for deposit at private residence.

PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Persons to present documents for registration.
33. Powers-of-attorney recognizable for purposes of section 32.
Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

SECTIONS.

34. Enquiry before registration by registering officer.
35. Procedure on admission of execution.
Procedure on denial of execution, &c.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

36. Procedure where appearance of executant or witness is desired.
37. Officer or Court to issue and cause service of summons.
38. Persons exempt from appearance at Registration Office.
39. Law as to summonses, commissions and witnesses.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. Persons entitled to present Wills and Authorities to adopt.
41. Registration of Wills and Authorities to adopt.

PART IX.

OF THE DEPOSIT OF WILLS.

42. Deposit of Wills.
43. Procedure on deposit of Wills.
44. Withdrawal of sealed cover deposited under section 42.
45. Proceedings on death of depositor.
Re-deposit.
46. Saving of Act X of 1865, section 259.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. Time from which registered document operates.
48. Registered documents relating to property when to take effect against oral agreements.
49. Effect of non-registration of documents required to be registered.
50. Registered documents relating to land, of which registration is optional, to take effect against unregistered documents.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(*A.*) *As to the Register Books and Indexes.*

51. Register-books to be kept in the several offices.
52. Endorsements on document presented.
Receipt for document.
Documents admitted to registration to be copied.
53. Entries to be numbered consecutively.
54. Current Indexes and entries therein.
55. Indexes to be made by registering officers.
Extra particulars in Indexes.
56. Copy of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.
Such copy to be filed by Registrar.
57. Registering officers to allow inspection of certain Books and Indexes, and to give certified copies of entries.

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

58. Particulars to be endorsed on documents admitted to registration.
59. Such endorsements to be dated and signed by registering officer.
60. Certificate showing that document has been registered, and number and page of book in which it has been copied.
61. Endorsements and certificate to be copied.
Document to be returned.
62. Procedure on presenting document in language unknown to registering officer.
63. Power to administer oaths.
Record of substance of statements.

(*C.*) *Special Duties of Sub-Registrar.*

64. Procedure on registration of document relating to land situate in several Sub-Districts.
65. Procedure where document relates to land situate in several Districts.

(*D.*) *Special Duties of Registrar.*

66. Procedure on registering documents relating to land.
67. Procedure on registration under section 30, clause (*b*).

(*E.*) *Of the Controlling Powers of Registrars and Inspectors General.*

68. Registrar to superintend and control Sub-Registrars.
69. Inspector General to superintend Registration Offices.
His power to make rules.
70. His power to remit fines.

PART XII.

OF REFUSAL TO REGISTER.

71. Reasons for refusal to register to be recorded.
72. Power to reverse or alter orders of Sub-Registrar refusing registration on ground other than denial of execution.
73. Application where Sub-Registrar refuses to register on ground of denial of execution.
74. Procedure of Registrar on such application.
75. Order of Registrar and procedure thereon.
76. Refusal by Registrar.
77. Suit in case of refusal.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

78. Fees to be fixed by Local Government.
Alteration of fees.
79. Publication of fees.
80. Fees payable on presentation.

PART XIV.

OF PENALTIES.

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

SECTIONS.
82. Penalty for certain other offences.
Making false statements before registering officer.
Delivering false copy or translation.
False personation.
Abetment of offences under Act.
88. Registering officer may institute prosecutions.
84. Registering officers to be deemed public servants.

PART XV.

MISCELLANEOUS.

85. Destruction of unclaimed documents.
86. Registering officer not liable for thing *bonâ fide* done or refused in his official capacity.
87. Nothing so done invalidated by defect in appointment or procedure.
88. Registration of documents executed by Government officers or certain public functionaries.
89. Certificates under Land Improvement Act, 1871.

Exemptions from Act.

90. Exemption of certain documents executed by or in favour of Government.
91. Inspection and copies of such documents.
92. Burmese registration rules confirmed.

An Act for the Registration of Documents.

WHEREAS it is expedient to amend the law relating to the registration of documents; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Indian Registration Act, 1877:" Short title.

It extends to the whole of British India, except such districts or tracts of country as the Local Government may from time to time, with the previous sanction of the Governor General in Council, exclude from its operation; Local extent.

And it shall come into force on the first day of April 1877. Commencement.

2. On and from that day Act No. VIII of 1871 shall be repealed. Repeal of enactments.

But all appointments, notifications, rules and orders made, and all Districts and Sub-districts formed, and all offices established, and all tables of fees prepared, under such Act or any of the enactments thereby repealed shall be deemed to have been respectively made, formed, established and prepared under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of April 1877, to the said Act, or to any enactment thereby repealed, shall be read as if made to the corresponding section of this Act.

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

"Lease" includes a counterpart, kabúliyat, an undertaking to cultivate or occupy, and an agreement to lease: "Lease."

"Signature" and "signed" include and apply to the affixing of a mark: "Signature." "Signed."

"Immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to any thing which is attached to the earth, but not standing timber, growing crops, nor grass: "Immoveable property."

"Moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property: "Moveable property."

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book: "Book."

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act: "Endorsement." "Endorsed."

"Minor" means a person who, according to the personal law to which he is subject, has not attained majority: "Minor."

"Representative" includes the guardian of a minor and the Committee or other legal curator of a lunatic or idiot: "Representative."

"Addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name: "Addition."

"District Court" includes the High Court in its ordinary original civil jurisdiction; and "District Court."

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act. "District." "Sub-District."

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4. The Local Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government, Inspector General of Registration.

or may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits, as the Local Government from time to time appoints in this behalf.

The Governor of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred. Branch Inspector General of Sindh.

Any Inspector General or the Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Government shall form Districts and Sub-Districts, and shall prescribe, and may from time to time alter, the limits of such Districts and Sub-Districts. Districts and Sub-Districts.

The Districts and Sub-Districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

6. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively. Registrars and Sub-Registrars.

7. The Local Government shall establish in every District an office to be styled the Office of the Registrar and in every Sub-District an office or offices to be styled the Office of the Sub-Registrar, or the Offices of the Joint Sub-Registrars, and may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, Offices of Registrar and Sub-Registrar.

and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate:

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

8. The Local Government may also appoint officers to be called Inspectors of Registration Offices, and may from time to time prescribe the duties of such officers. Every such Inspector shall be subordinate to the Inspector General. Inspectors of Registration Offices.

9. Every military cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be, for the purposes of this Act, a Sub-District or a District, and such Magistrate shall be the Sub-Registrar or the Registrar of such Sub-District or District, as the case may be. Military cantonments may be declared Sub-Districts or Districts.

Whenever the Governor General in Council declares any military cantonment beyond the limits of British India to be a Sub-District or a District for the purposes of this Act, he shall also declare, in the case of a Sub-District, what authorities shall be Registrar of the District and Inspector General, and in the case of a District, what authority shall be Inspector General, with reference to such cantonment and the Sub-Registrar or Registrar thereof.

10. Whenever any Registrar other than the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant, Absence of Registrar from his District or vacancy in his office.

any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situate,

shall be the Registrar during such absence or until the Local Government fills up the vacancy.

Whenever the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

11. Whenever any Registrar is absent from his office on duty in his District, he may appoint any Sub-Registrar or other person in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in sections 68 and 72. Absence of Registrar on duty in his District.

12. Whenever any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the District appoints in this behalf shall be Sub-Registrar during such absence, or until the Local Government fills up the vacancy. Absence of Sub-Registrar or vacancy in his office.

13. All appointments made under section 10, section 11, or section 12 shall be reported to the Local Government by the Inspector General. Such report shall be either special or general, as the Local Government directs. Appointments under section 10, 11 or 12 to be reported to Government.

The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead. Suspension, removal and dismissal of officers.

14. Subject to the approval of the Governor General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries. Remuneration and establishments of registering officers.

The Local Government may allow proper establishments for the several Offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the Registrar (*or* of the Sub-Registrar) of ." Seals of registering officers.

16. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act. Register-books.

The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

Forms.

The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each District make suitable provision for the safe custody of the records connected with the registration of documents in such District.

Fire-proof boxes.

PART III

OF REGISTRABLE DOCUMENTS.

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a District in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or Act No. XX of 1866, or Act No. VIII of 1871, or this Act came or comes into force (that is to say),—

Documents of which registration is compulsory.

(*a*) Instruments of gift of immoveable property:

(*b*) Other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property:

(*c*) Non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(*d*) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any District, or part of a District, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

Exception of composition-deeds;

Nothing in clauses (*b*) and (*c*) of this section applies to

(*e*) any composition-deed,

(*f*) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property, or

and of transfers of shares and debentures in Land Companies.

(*g*) any endorsement upon or transfer of any debenture issued by any such Company,

(*h*) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will when executed create, declare, assign, limit or extinguish any such right, title or interest,

documents merely creating right to obtain other documents.

(*i*) decrees and orders of Courts and awards,

(*j*) grants of immoveable property by Government,

(*k*) instruments of partition made by revenue officers,

(*l*) certificates and instruments of collateral security granted under the Land Improvement Act, 1871.

Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.

Authorities to adopt.

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

Documents of which registration is optional.

(*a*) Instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property:

(*b*) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest:

(*c*) Leases of immoveable property for any term not exceeding one year, and leases exempted under section 17:

(*d*) Instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property:

(*e*) Wills:

(*f*) All other documents not required by section 17 to be registered.

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

Documents in language not understood by registering officer.

20. The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

Documents containing interlineations, blanks, erasures or alterations.

21. (*a*) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

Description of parcels.

(*b*) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(*c*) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map

Documents containing maps or plans.

or plan, or, in case such property is situate in several Districts, by such number of true copies of the map or plan as are equal to the number of such Districts.

22. Failure to comply with the provisions contained in section 21, clause (*b*), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

Failure to comply with rules as to description of houses and land.

PART IV.

OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections 24, 25 and 26, no document other than a will, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution,

Time for presenting documents.

or, in the case of a copy of a decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final:

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

24. If owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Provision where delay in presentation is unavoidable.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

25. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registering Officer, if satisfied,

Documents executed out of British India.

(*a*) that the instrument was so executed, and

(*b*) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration fee, accept such document for registration.

26. Whenever a registration-office is closed on the last day of any period provided in this Act for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

Provision where office is closed on last day of period for presentation.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

Wills may be presented or deposited at any time.

PART V.

OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section 17, clauses (*a*), (*b*), (*c*) and (*d*), and section 18, clauses (*a*), (*b*) and (*c*), shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

Place for registering documents relating to land.

29. Every document other than a document referred to in section 28 and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

Place for registering other documents.

A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose Sub-District the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

30. (*a*) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

Registration by Registrar.

(*b*.) The Registrar of a District including a Presidency Town and the Registrar of the Lahore District may receive and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.

Registration by Registrar at Presidency Town and Lahore.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

Registration or acceptance for deposit at private residence.

But such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office,

Persons to present documents for registration.

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. For the purposes of section 32, the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say),—

Powers of attorney recognizable for purposes of section 32.

(*a*) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides:

(*b*) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate:

(*c*) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India:

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (*a*) and (*b*) of this section:—

Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;

persons who are in jail under civil or criminal process; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Magistrate (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Any power-of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

34. Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26:

Enquiry before registration by registering officer.

Provided that if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration-fee in addition to the fine, if any, payable under section 24, the document may be registered.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon—

(*a*) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(*b*) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(*c*) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

Any application for a direction under the proviso in this section may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

Nothing in this section applies to copies of decrees or orders.

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

Procedure on admission of execution.

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

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61, inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

If any of the persons by whom the document purports to be executed deny its execution,

Procedure on denial of execution, &c.

or if any such person appears to be a minor, an idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document: Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII of this Act.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

36. If any person presenting any document for registration, or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

Procedure where appearance of executant or witness is desired.

37. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Officer or Court to issue and cause service of summons.

38. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office,

Persons exempt from appearance at registration office.

a person in jail under civil or criminal process,

and persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office,

shall not be required so to appear.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

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

Law as to summonses, commissions and witnesses.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. The testator or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration,

Persons entitled to present wills and authorities to adopt.

and the donor or after his death the donee of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

Registration of wills and authorities to adopt.

A will or authority to adopt presented for registration by any other person entitled to present it, shall be registered if the registering officer is satisfied,

(*a*) that the will or authority was executed by the testator or donor, as the case may be,

(*b*) that the testator or donor is dead, and

(*c*) that the person presenting the will or authority is, under section 40, entitled to present the same.

PART IX.

OF THE DEPOSIT OF WILLS.

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

Deposit of wills.

43. On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register Book No. 5 the superscription aforesaid and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

Procedure on deposit of wills.

The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply either personally or by duly authorized agent to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Withdrawal of sealed cover deposited under section 42.

45. If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

Proceedings on death of depositor.

When such copy has been made, the Registrar shall re-deposit the original will.

Re-deposit.

46. Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, section 259, or the power of any Court by order to compel the production of any will. But whenever any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

Saving of Act X of 1865, section 259.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

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

Time from which registered document operates.

48. All non-testamentary documents duly registered under this Act, and relating to any property whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Registered documents relating to property when to take effect against oral agreements.

49. No document required by section 17 to be registered,

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

shall affect any immoveable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

Registered documents relating to land, of which registration is optional, to take effect against unregistered documents.

50. Every document of the kinds mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of section 17, and clauses (*a*) and (*b*) of section 18, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

Nothing in the former part of this section applies to leases exempted under the proviso in section 17, or to the documents mentioned in clauses (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*) and (*l*) of the same section.

Explanation.—In cases where Act No. XVI of 1864 or Act No. XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under Act No. VIII of 1871 or this Act.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(*A*). *As to the Register Books and Indexes.*

Register-books to be kept in the several offices.

51. The following Books shall be kept in the several offices hereinafter named (that is to say)—

In all registration offices—

Book 1, "Register of non-testamentary documents relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

Book 3, "Register of wills and authorities to adopt;" and

Book 4, "Miscellaneous Register."

In the offices of Registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under sections 17, 18 and 87 which relate to immoveable property, and are not wills.

In Book 4 shall be entered all documents registered under clauses (*d*) and (*f*) of section 18, which do not relate to immoveable property.

Nothing in the former part of this section shall be deemed to require more than one set of books where the Office of the Registrar has been amalgamated with the Office of a Sub-Registrar.

Endorsements on document presented. Receipt for document.

52. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it: a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

Documents admitted to registration to be copied.

And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector General.

Entries to be numbered consecutively.

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

Current indexes and entries therein.

54. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

Indexes to be made by registering officers.

55. Four such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III, and Index No. IV.

Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.

Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book No. 4.

Extra particulars in indexes.

Indexes Nos. I, II, III and IV shall contain such other particulars, and shall be prepared in such form, as the Inspector General from time to time directs.

Copy of entries in Indexes Nos. I, II and III to be sent by Sub-Registrar to Registrar.

56. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a copy of all entries made by such Sub-Registrar, during the last of such intervals, in Indexes Nos. I, II and III.

Such copy to be filed by Registrar.

Every Registrar receiving such copy shall file it in his office.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

57. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and subject

to the provisions of section 62, copies of entries in such books shall be given to all persons applying for such copies.

Subject to the same provisions, copies of entries in Book No. 3 and in the index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

Subject to the same provisions, copies of entries in Book No. 4 and in the index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative. The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

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

Particulars to be endorsed on documents admitted to registration.

58. On every document admitted to registration, other than a copy of a decree or order, or a copy of a certificate under the Land Improvement, Act, 1871, sent by the Collector to be registered, there shall be endorsed from time to time the following particulars (that is to say),—

(*a*) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(*b*) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(*c*) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

Such endorsements to be dated and signed by registering officer.

59. The registering officer shall affix the date and his signature to all endorsements made under sections 52 and 58, relating to the same document and made in his presence on the same day.

Certificate showing that document has been registered, and number and page of book in which it has been copied.

60. After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

Endorsements and certificate to be copied.

61. The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

Document to be returned.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

Procedure on presenting document in language unknown to registering officer.

62. When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in section 19, shall be filed in the registration office.

The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and for the purpose of making the copies and memoranda required by sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

Power to administer oaths.

63. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Record of substance of statements.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(*C*). *Special Duties of Sub-Registrar.*

Procedure on registration of document relating to land situate in several Sub-Districts.

64. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property not wholly situate in his own Sub-District, shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

Procedure where document relates to land situate in several districts.

65. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property situate in more districts than one, shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any), mentioned in section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own Sub-District is situate.

The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward

a memorandum of the document to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D). Special Duties of Registrar.

66. On registering any non-testamentary document relating to immoveable property, the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose Sub-District any part of the property is situate.

Procedure on registering documents relating to land.

He shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose Sub-District any part of the property is situate.

Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

67. On any document being registered under section 30, clause (*b*), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in the first clause of section 66.

Procedure on registration under section 30, clause (*b*).

(E). Of the controlling Powers of Registrars and Inspectors General.

68. Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

Registrar to superintend and control Sub-Registrars.

Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document shall have been registered.

69. The Inspector General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to make rules consistent with this Act—

Inspector General to superintend registration offices.

His power to make rules.

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

declaring what languages shall be deemed to be commonly used in each district;

declaring what territorial divisions shall be recognized under section 21;

regulating the amount of fines imposed under sections 24 and 34, respectively;

regulating the exercise of the discretion reposed in the registering officer by section 63;

regulating the form in which registering officers are to make memoranda of documents;

regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51;

declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively;

declaring the holidays that shall be observed in the registration offices;

and, generally, regulating the proceedings of the Registrars and Sub-Registrars.

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

70. The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 24 or section 34 and the amount of the proper registration fee.

His power to remit fines.

PART XII.

OF REFUSAL TO REGISTER.

71. Every Sub-Registrar refusing to register a document,

Reasons for refusal to register to be recorded.

except on the ground that the property to which it relates is not situate within his Sub-District,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order:

Power to reverse or alter orders of Sub-Registrar refusing registration on ground other than denial of execution.

and if the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

73. When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution,

Application where Sub-Registrar refuses to register on ground of denial of execution.

any person claiming under such document, or his representative, assign or agent authorized as

aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

Such application shall be in writing and shall be accompanied by a copy of the reason recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

74. In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, he shall as soon as conveniently may be enquire—

Procedure of Registrar on such application.

(*a*) whether the document has been executed;

(*b*) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration as the case may be, so as to entitle the document to registration.

75. If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

Order to register and procedure thereon.

And if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

76. Every Registrar refusing—

Refusal by Registrar.

(*a*) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or

(*b*) to direct the registration of a document under section 72 or section 75,

shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

No appeal lies from any order under this section or section 72.

77. Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office, if it be duly presented for registration within thirty days after the passing of such decree; and the

Suit in case of refusal.

provisions contained in the second and third paragraphs of section 75, shall, *mutatis mutandis*, apply to all documents so presented, and notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

78. Subject to the approval of the Governor General in Council, the Local Government shall prepare a table of fees payable—

Fees to be fixed by Local Government.

for the registration of documents:

for searching the registers:

for making or granting copies of reasons, entries or documents, before, on or after registration:

And of extra or additional fees payable—

for every registration under section thirty:

for the issue of commissions:

or filing translations:

for attending at private residences:

for the safe custody and return of documents:

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

The Local Government may from time to time, subject to the like approval, alter such table.

Alteration of fees.

79. A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

Publication of fees.

80. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

Fees payable on presentation.

PART XIV.

OF PENALTIES.

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

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

82. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both:

Penalty for certain other offences.

(*a*) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act,

Making false statements before registering officer.

(*b*) intentionally delivers to a registering officer in any proceeding under section 19 or section 21 a false copy or translation of a document, or a false copy of a map or plan,

Delivering false copy or translation.

(*c*) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act,

False personation.

(*d*) abets within the meaning of the Indian Penal Code anything made punishable by this Act.

Abetment of offences under this Act.

83. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, in whose territories, District or Sub-District, as the case may be, the offence has been committed.

Registering officer may commence prosecutions.

Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Subordinate Magistrate of the first class:

Provided that, in imposing penalties under this Act, no such Court or officer shall exceed the limits of jurisdiction prescribed by the law for the time being in force as to such Court or officer.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the Presidency Towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such Towns for the time being in force.

84. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Registering officers to be deemed public servants.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in section 228 of the same Code, the words "judicial proceeding" shall include any proceeding under this Act.

A Registrar shall, but a Sub-Registrar shall not, as such, be deemed a Court within the meaning of sections 435 and 436 of the Code of Criminal Procedure.

PART XV.

MISCELLANEOUS.

85. Documents (other than wills) remaining unclaimed in any registration office, for a period exceeding two years, may be destroyed.

Destruction of unclaimed documents.

86. No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Registering officer not liable for thing *bonâ fide* done or refused in his official capacity.

87. Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing so done invalidated by defect in appointment or procedure.

88. Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee, or Official Assignee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

Registration of documents executed by Government officers or certain public functionaries.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary to Government or to such officer of Government, Administrator General, Official Trustee, Official Assignee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

89. Every officer granting a certificate under the Land Improvement Act, 1871, shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved, or of the land to be granted as collateral security, is situate, and such registering officer shall file the certificate in his book No. 1.

Certificates under Land Improvement Act, 1871.

Exemptions from Act.

90. Nothing contained in this Act or in Act No. VIII of 1871 or in any Act thereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps:—

Exemption of certain documents executed by or in favour of Government.

(*a*). Documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement.

(*b*). Documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey.

(*c*). Documents which, under any law for the time being in force, or filed periodically in any revenue office by patwáris or other officers charged with the preparation of village-records.

(*d*). Sanads, inám title-deeds and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land.

But all such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

91. Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in section 90, clauses (*a*), (*b*) and (*c*), and all registers of the documents mentioned in clause (*d*), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

Inspection and copies of such documents.

92. All rules relating to registration heretofore enforced in British Burma shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

Burmese registration-rules confirmed.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 7th February 1877, and is hereby promulgated for general information:—

ACT I OF 1877.

THE SPECIFIC RELIEF ACT, 1877.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
3. Interpretation-clause.
4. Savings.
5. Specific relief how given.
6. Preventive relief.
7. Relief not granted to enforce penal law.

PART II.

OF SPECIFIC RELIEF.

CHAPTER I.

OF RECOVERING POSSESSION OF PROPERTY.

(*a*). *Possession of Immoveable Property.*

8. Recovery of specific immoveable property.
9. Suit by person dispossessed of immoveable property.

SECTIONS.

(*b*). *Possession of Moveable Property.*

10. Recovery of specific moveable property.
11. Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

CHAPTER II.

OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(*a*). *Contracts which may be specifically enforced.*

12. Cases in which specific performance enforceable.
13. Contracts of which the subject has partially ceased to exist.
14. Specific performance of part of contract where part unperformed is small.
15. Specific performance of part of a contract where the part unperformed is large.
16. Specific performance of independent part of a contract.
17. Bar in other cases of specific performance of part of contract.
18. Purchaser's rights against vendor with imperfect title.
19. Power to award compensation in certain cases.
20. Liquidation of damages not a bar to specific performance.

(*b*). *Contracts which cannot be specifically enforced.*

21. Contracts not specifically enforceable.

(*c*). *Of the Discretion of the Court.*

22. Discretion as to decreeing specific performance.

(*d*). *For whom Contracts may be specifically enforced.*

23. Who may obtain specific performance.

(*e*). *For whom Contracts cannot be specifically enforced.*

24. Personal bars to the relief.

SECTIONS.
25. Contracts to sell property by one who has no title, or who is a voluntary settler.
(*f*). *For whom Contracts cannot be specifically enforced, except with a variation.*
26. Non-enforcement except with variation.
(*g*). *Against whom Contracts may be specifically enforced.*
27. Relief against parties and persons claiming under them by subsequent title.
(*h*). *Against whom Contracts cannot be specifically enforced.*
28. What parties cannot be compelled to perform.
(*i*). *The Effect of dismissing a Suit for Specific Performance.*
29. Bar of suit for breach after dismissal.
(*j*). *Awards and Directions to execute Settlements.*
30. Application of preceding sections to awards and testamentary directions to execute settlements.

CHAPTER III.
OF THE RECTIFICATION OF INSTRUMENTS.
31. When instrument may be rectified.
32. Presumption as to intent of parties.
33. Principles of rectification.
34. Specific enforcement of rectified contract.

CHAPTER IV.
OF THE RESCISSION OF CONTRACTS.
35. When rescission may be adjudged.
36. Rescission for mistake.
37. Alternative prayer for rescission in suit for specific performance.
38. Court may require party rescinding to do equity.

CHAPTER V.
OF THE CANCELLATION OF INSTRUMENTS.
39. When cancellation may be ordered.
40. What instruments may be partially cancelled.
41. Power to require party for whom instrument is cancelled to make compensation.

CHAPTER VI.
OF DECLARATORY DECREES.
42. Discretion of Court as to declarations of status, or right.
Bar to such declaration.
43. Effect of declaration.

CHAPTER VII.
OF THE APPOINTMENT OF RECEIVERS.
44. Appointment of Receivers discretionary.
Reference to Code of Civil Procedure.

CHAPTER VIII.
OF THE ENFORCEMENT OF PUBLIC DUTIES.
45. Power to order public servants and others to do certain specific acts.
Exemptions from such power.

SECTIONS.
46. Application how made.
Procedure thereon.
Order in alternative.
47. Peremptory order.
48. Execution of, and appeal from, orders.
49. Costs.
50. Bar to issue of *mandamus*.
51. Power to frame rules.

PART III.
OF PREVENTIVE RELIEF.

CHAPTER IX.
OF INJUNCTIONS GENERALLY.
52. Preventive relief how granted.
53. Temporary injunctions.
Perpetual injunctions.

CHAPTER X.
OF PERPETUAL INJUNCTIONS.
54. Perpetual injunctions when granted.
55. Mandatory injunctions.
56. Injunction when refused.
57. Injunction to perform negative agreement.

SCHEDULE.—Enactments repealed.

An Act to define and amend the Law relating to certain kinds of Specific Relief.

WHEREAS it is expedient to define and amend the law relating to certain kinds of specific relief obtainable in civil suits; It is hereby enacted as follows:— Preamble.

PART I.
PRELIMINARY.

1. This Act may be called "The Specific Relief Act, 1877:" Short title.
It extends to the whole of British India, except the Scheduled Districts as defined in Act No. XIV of 1874; Local extent.
And it shall come into force on the first day of May 1877. Commencement.

2. On and from that day the Acts specified in the schedule hereto annexed shall be repealed to the extent mentioned in its third column. Repeal of enactments.

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.
'obligation' includes every duty enforceable by law: 'obligation.'
'trust' includes every species of express, implied, or constructive fiduciary ownership: 'trust.'
'trustee' includes every person holding, expressly, by implication, or constructively, a fiduciary character: 'trustee.'

Illustrations.

(*a*). Z bequeaths land to A, 'not doubting that he will pay thereout an annuity of Rs. 1,000 to B for his life.' A accepts the bequest. A is a trustee within the meaning of this Act for B to the extent of the annuity.

(*b*). A is the legal, medical, or spiritual adviser of B. By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee for B within the meaning of this Act of such advantage.

(*c*). A, being B's banker, discloses for his own purpose the state of B's account. A is a trustee within the meaning of this Act for B of the benefit gained by him by means of such disclosure.

(*d*). A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee within the meaning of this Act of the renewed lease for those interested in the original lease.

(*e*). A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee, for his co-partners, within the meaning of this Act of the profit so made.

(*f*). A, the manager of B's indigo factory, becomes agent for C, a vendor of indigo-seed, and receives, without B's assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(*g*). A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, for B, of the land so bought.

(*h*). A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act, for C, to the extent of that interest.

'settlement' means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of: 'settlement.'

and all words occurring in this Act, which are defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively assigned to them by that Act. Words defined in Contract Act.

4. Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed— Savings.
(*a*) to give any right to relief in respect of any agreement which is not a contract;
(*b*) to deprive any person of any right to relief, other than specific performance, which he may have under any contract; or
(*c*) to affect the operation of the Indian Registration Act on documents.

5. Specific relief is given— Specific relief how given.
(*a*) by taking possession of certain property and delivering it to a claimant;
(*b*) by ordering a party to do the very act which he is under an obligation to do;
(*c*) by preventing a party from doing that which he is under an obligation not to do;
(*d*) by determining and declaring the rights of parties otherwise than by an award of compensation; or
(*e*) by appointing a Receiver.

6. Specific relief granted under clause (*c*) of section 5 is called preventive relief. Preventive relief.

7. Specific relief cannot be granted for the mere purpose of enforcing a penal law. Relief not granted to enforce penal law.

PART II.
OF SPECIFIC RELIEF.

CHAPTER I.
OF RECOVERING POSSESSION OF PROPERTY.

(*a*).—*Possession of Immoveable Property.*

8. A person entitled to the possession of specific immoveable property may recover it in the manner prescribed by the Code of Civil Procedure. Recovery of specific immoveable property.

9. If any person is dispossessed without his consent of immoveable property otherwise than in due course of law, he or any person claiming through him may, by suit instituted within six months from the date of the dispossession, recover possession thereof, notwithstanding any other title that may be set up in such suit. Suit by person dispossessed of immoveable property.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

(*b*). *Possession of Moveable Property.*

10. A person entitled to the possession of specific moveable property may recover the same in the manner prescribed by the Code of Civil Procedure. Recovery of specific moveable property.

EXPLANATION 1.—A trustee may sue under this section for the possession of property to the beneficial interest in which the person for whom he is trustee is entitled.

EXPLANATION 2.—A special or temporary right to the present possession of property is sufficient to support a suit under this section.

Illustrations.

(*a*). A bequeaths land to B for his life, with remainder to C. A dies. B enters on the land, but C, without B's consent, obtains possession of the title-deeds. B may recover them from C.

(*b*). A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession, whatever right he may have to secure their safe custody.

(*c*). A receives a letter addressed to him by B. B gets back the letter without A's consent. A has such a property therein as entitles him to recover it from B.

(*d*). A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under section 168 of the Indian Contract Act, 1872.

(*e*). A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

11. Any person having the possession or control of a particular article of moveable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases:— Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

(*a*) when the thing claimed is held by the defendant as the agent or trustee of the claimant;

(*b*) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed;

(*c*) when it would be extremely difficult to ascertain the actual damage caused by its loss;

(*d*) when the possession of the thing claimed has been wrongfully transferred from the claimant.

Illustrations

of clause (*a*).—A, proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B, without A's authority, pledges the furniture to C, and C, knowing that B had no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee.

of clause (*b*).—Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver the idol to A.

of clause (*c*).—A is entitled to a picture by a dead painter and a pair of rare China vases. B has possession of them. The articles are of too special a character to bear an ascertainable market-value. B may be compelled to deliver them to A.

CHAPTER II.

OF THE SPECIFIC PERFORMANCE OF CONTRACTS.

(*a*). *Contracts which may be specifically enforced.*

12. Except as otherwise provided in this chapter, the specific performance of any contract may in the discretion of the Court be enforced—

Cases in which specific performance enforceable.

(*a*) when the act agreed to be done is in the performance, wholly or partly, of a trust;

(*b*) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done;

(*c*) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief; or

(*d*) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

EXPLANATION.—Unless and until the contrary is proved, the Court shall presume that the breach of a contract to transfer immoveable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved.

Illustrations

of clause (*a*).—A holds certain stock in trust for B. A wrongfully disposes of the stock. The law creates an obligation on A to restore the same quantity of stock to B, and B may enforce specific performance of this obligation.

of clause (*b*).—A agrees to buy, and B agrees to sell, a picture by a dead painter and two rare China vases. A may compel B specifically to perform this contract, for there is no standard for ascertaining the actual damage which would be caused by its non-performance.

of clause (*c*).—A contracts with B to sell him a house for Rs. 1,000. B is entitled to a decree directing A to convey the house to him, he paying the purchase-money.

In consideration of being released from certain obligations imposed on it by its Act of incorporation, a railway company contract with Z to make an archway through their railway to connect lands of Z severed by the railway, to construct a road between certain specified points, to pay a certain annual sum towards the maintenance of this road, and also to construct a siding and a wharf as specified in the contract. Z is entitled to have this contract specifically enforced, for his interest in its performance cannot be adequately compensated for by money; and the Court may appoint a proper person to superintend the construction of the archway, road, siding and wharf.

A contracts to sell, and B contracts to buy, a certain number of railway-shares of a particular description. A refuses to complete the sale. B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder, which cannot otherwise be procured.

A contracts with B to paint a picture for B, who agrees to pay therefor Rs. 1,000. The picture is painted. B is entitled to have it delivered to him on payment or tender of the Rs. 1,000.

of clause (*d*).—A transfers without endorsement, but for valuable consideration, a promissory note to B. A becomes insolvent, and C is appointed his assignee. B may compel C to endorse the note, for C has succeeded to A's liabilities, and a decree for pecuniary compensation for not endorsing the note would be fruitless.

13. Notwithstanding anything contained in section 56 of the Indian Contract Act, a contract is not wholly impossible of performance, because a portion of its subject-matter existing at its date has ceased to exist at the time of the performance.

Contracts of which the subject has partially ceased to exist.

Illustrations.

(*a*). A contracts to sell a house to B for a lákh of rupees. The day after the contract is made, the house is destroyed by a cyclone. B may be compelled to perform his part of the contract by paying the purchase-money.

(*b*). In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been made, B is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

14. Where a party to a contract is unable to perform the whole of his part of it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

Specific performance of part of contract where part unperformed is small.

Illustrations.

(*a*). A contracts to sell B a piece of land consisting of 100 bighás. It turns out that 98 bighás of the land belong to A, and the two remaining bighás to a stranger, who refuses to part with them. The two bighás are not necessary for the use or enjoyment of the 98 bighás, nor so important for such use or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 bighás and to make compensation to him for not conveying the two remaining bighás; or B may be directed, at the suit of A, to pay to A on receiving the conveyance and possession of the land, the stipulated purchase-money, less a sum awarded as compensation for the deficiency.

(*b*). In a contract for the sale and purchase of a house and lands for two lákhs of rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

15. Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, he is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, provided that the plaintiff relinquishes all claim to further performance, and all right to compensation, either for the deficiency, or for the loss or damage sustained by him through the default of the defendant.

Specific performance of part of a contract where the part unperformed is large.

Illustrations.

(*a*). A contracts to sell to B a piece of land consisting of 100 bighás. It turns out that 50 bighás of the land belong to A, and the other 50 bighás to a stranger, who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 bighás which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree directing A to convey those 50 bighás to him on payment of the purchase-money.

(*b*). A contracts to sell to B an estate with a house and garden for a lákh of rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree, directing A to convey the house to him on payment of the purchase-money.

16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.

Specific performance of independent part of a contract.

17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other of the three last preceding sections.

Bar in other cases of specific performance of part of contract.

18. Where a person contracts to sell or let certain property, having only an imperfect title thereto, the purchaser or lessee (except as otherwise provided by this chapter) has the following rights:—

Purchaser's rights against vendor with imperfect title.

(*a*) if the vendor or lessor has subsequently to the sale or lease acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest;

(*b*) where the concurrence of other persons is necessary to validate the title, and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence;

(*c*) where the vendor professes to sell unincumbered property, but the property is mortgaged for an amount not exceeding the purchase-money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage and to obtain a conveyance from the mortgagee;

(*d*) where the vendor or lessor sues for specific performance of the contract, and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to his costs of the suit, and to a lien for such deposit, interest and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

19. Any person suing for the specific performance of a contract, may also ask for compensation for its breach, either in addition to, or in substitution for, such performance.

Power to award compensation in certain cases.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any such suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

EXPLANATION.—The circumstance that the contract has become incapable of specific performance, does not preclude the Court from exercising the jurisdiction conferred by this section.

Illustrations

of the second paragraph:—A contracts to sell a hundred maunds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion that A has made a valid contract and has broken it, without excuse, to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph:—A contracts with B to sell him a house for Rs. 1,000, the price to be paid and the possession given on the 1st January 1877. A fails to perform his part of the contract, and B brings his suit for specific performance and compensation, which is decided in his favour on the 1st January 1878. The decree may, besides ordering specific performance, award to B compensation for any loss which he has sustained by A's refusal.

of the Explanation:—A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent. Before the hearing of the suit, the patent expires. The Court may award A compensation for the non-performance of the contract and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him, and for compensation for the non-performance of the resolution. All the shares had been allotted before the institution of the suit. The Court may, under this section, award A compensation for the non-performance.

20. A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

Liquidation of damages not a bar to specific performance.

Illustration.

A contracts to grant B an underlease of property held by A under C, and that he will apply to C for a license necessary to the validity of the underlease and that, if the license is not procured, A will pay B Rs. 10,000. A refuses to apply for the license and offers to pay B the Rs. 10,000. B is nevertheless entitled to have the contract specifically enforced if C consents to give the license.

(*b*). *Contracts which cannot be specifically enforced.*

21. The following contracts cannot be specifically enforced:—

Contracts not specifically enforceable.

(*a*) a contract for the non-performance of which compensation in money is an adequate relief;

(*b*) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms;

(*c*) a contract the terms of which the Court cannot find with reasonable certainty;

(*d*) a contract which is in its nature revocable;

(*e*) a contract made by trustees either in excess of their powers or in breach of their trust;

(*f*) a contract made by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers;

(*g*) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date;

(*h*) a contract of which a material part of the subject-matter, supposed by both parties, to exist has, before it has been made, ceased to exist.

And save as provided by the Code of Civil Procedure, no contract to refer a controversy to arbitration shall be specifically enforced; but if any person who has made such a contract and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

Illustrations

to (*a*).—A contracts to sell, and B contracts to buy, a lákh of rupees in the four per cent. loan of the Government of India.

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rs. 1,000 per chest.

In consideration of certain property having been transferred by A to B, B contracts to open a credit in A's favour to the extent of Rs. 10,000, and to honour A's drafts to that amount.

The above contracts cannot be specifically enforced, for, in the first and the second both A and B, and in the third A would be reimbursed by compensation in money.

to (*b*).—A contracts to render personal service to B:

A contracts to employ B on personal service:

A, an author, contracts with B, a publisher, to complete a literary work.

B cannot enforce specific performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made, A instructs his valuer not to proceed.

By a charter party entered into in Calcutta between A, the owner of a ship, and B, the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London.

A lets land to B and B contracts to cultivate it in a particular manner for three years next after the date of the lease.

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contract grow particular crops on the land in his possession and deliver them to A when cut and ready for delivery.

A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B, he will paint a picture for B.

A contracts with B to execute certain works which the Court cannot superintend.

A contracts to supply B with all the goods of a certain class which B may require.

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, "if the drawing-room is handsomely decorated," even if it is held to have so much certainty that compensation can be recovered for its breach.

A contracts to marry B.

The above contracts cannot be specifically enforced.

to (*c*).—A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (*d*).—A and B contract to become partners in a certain business, the contract not specifying the duration of the proposed partnership. This contract cannot be specifically performed, for, if it were so performed, either A or B might at once dissolve the partnership.

to (*e*).—A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a covenant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced.

Two trustees, A and B, empowered to sell trust-property worth a lákh of rupees, contract to sell it to C for Rs. 30,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property and in fact agree to pay an extravagant price therefor. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (*f*).—A company existing for the sole purpose of making and working a railway, contracts for the purchase of a piece of land for the purpose of erecting a cotton-mill thereon. This contract cannot be specifically enforced.

to (*g*).—A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land, and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

to (*h*).—A contracts to pay an annuity to B for the lives of C and D. It turns out that, at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

(*c*). *Of the Discretion of the Court.*

22. The jurisdiction to decree specific performance is discretionary, and the Court is not bound to grant such relief merely because it is lawful to do so; but the discretion of the Court is not arbitrary but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

Discretion as to decreeing specific performance.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:—

I. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

Illustrations.

(*a*). A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy, and B contracts to sell, that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance of the contract. If B knew the fact, and C did not, specific performance of the contract should be refused to B.

(*b*). A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact the value of C's interest depends on the result of certain partnership-accounts, on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(*c*). A contracts to sell, and B contracts to buy, certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance of the contract should be refused to A.

(*d*). A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present seeing the vendor's attorney bidding, think that he is a mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance of the contract should be refused to B.

II. Where the performance of the contract would involve some hardship on the defendant which he did not foresee, whereas its non-performance would involve no such hardship on the plaintiff.

Illustrations.

(*e*). A is entitled to some land under his father's will on condition that, if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty-five years, to sell the land to C. Here, the enforcement of the contract would operate so harshly on A, that the Court will not compel its specific performance in favour of C.

(*f*). A and B, trustees, join their beneficiary, C, in a contract to sell the trust-estate to D, and personally agree to exonerate the estate from heavy incumbrances to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(*g*). A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, shall not be obliged to define its boundary. The estate really comprises a valuable property not known to either to be part of it. Specific performance of the contract should be refused to B, unless he waives his claim to the unknown property.

(*h*). A contracts with B to sell him certain land, and to make a road to it from a certain railway station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest with compensation for loss of the road.

(*i*). A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used in and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance of it should be refused to B.

(*j*). A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(*k*). A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods, but if he does not supply them, A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the contract should be refused to B.

III. Where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

Illustration.

A sells land to a railway company who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should be decreed in favour of A.

(*d*). *For whom Contracts may be specifically enforced.*

23. Except as otherwise provided by this chapter, the specific performance of a contract may be obtained by—

Who may obtain specific performance.

(*a*) any party thereto;

(*b*) the representative in interest, or the principal, of any party thereto: provided that, where the learning, skill, solvency or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless where his part thereof has already been performed;

(*c*) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder;

(*d*) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman;

(*e*) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title and the reversioner is entitled to the benefit of such covenant;

(*f*) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof and will sustain material injury by reason of its breach;

(*g*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(*h*) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(*e*). *For whom Contracts cannot be specifically enforced.*

24. Specific performance of a contract cannot be enforced in favour of a person—

Personal bars to the relief.

(*a*) who could not recover compensation for its breach;

(*b*) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed; or

(*c*) who has already chosen his remedy and obtained satisfaction for the alleged breach of contract;

(*d*) who, previously to the contract had notice that a settlement of the subject-matter thereof, (though not founded on any valuable consideration) had been made and was then in force.

Illustrations

to clause (*a*).—A, in the character of agent for B, enters into an agreement with C to buy C's house. A is in reality acting, not as agent for B, but on his own account. A cannot enforce specific performance of this contract.

to clause (*b*).—A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, fells the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner: he cannot enforce the contract specifically, though A and B may sue each other for compensation for breach of it.

to clause (*c*).—A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract. A thereupon sues for, and obtains, compensation for the breach. A cannot obtain specific performance of the contract.

Contracts to sell property by one who has no title, or who is a voluntary settler.

25. A contract for the sale or letting of property, whether moveable or immoveable, cannot be specifically enforced in favour of a vendor or lessor—

(*a*) who, knowing himself not to have any title to the property, has contracted to sell or let the same;

(*b*) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt;

(*c*) who, previous to entering into the contract, has made a settlement (though not founded on any valuable consideration) of the subject-matter of the contract.

Illustrations.

(*a*). A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract, even though C is willing to confirm it.

(*b*). A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce this contract, as, in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(*c*). A, being in possession of certain land, contracts to sell it to Z. On enquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(*d*). A, out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A cannot enforce specific performance of this contract so as to override the settlement, and thus prejudice the interests of the persons claiming under it.

(*f*). *For whom Contracts cannot be specifically enforced except with a variation.*

Non-enforcement except with variation.

26. Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases (namely):—

(*a*) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;

(*b*) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;

(*c*) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part, which adds to the contract, but which he refuses to fulfil;

(*d*) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;

(*e*) where the parties have, subsequently to the execution of the contract, contracted to vary it.

Illustrations.

(*a*). A, B and C sign a writing by which they purport to contract each to enter into a bond to D for Rs. 1,000. In a suit by D, to make A, B and C separately liable each to the extent of Rs. 1,000, they prove that the word 'each' was inserted by mistake; that the intention was that they should give a joint bond for Rs. 1,000. A can obtain the performance sought only with the variation thus set up.

(*b*). A sues B to compel specific performance of a contract in writing to buy a dwelling-house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was so included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(*c*). A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions, and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the written contract, except with the variation set up by B.

(*d*). A and B enter into negotiations for the purpose of securing land to B for his life, with remainder to his issue. They execute a contract the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(*e*). A contracts in writing to let a house to B, for a certain term, at the rent of Rs. 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place: B contracting orally to pay rent at Rs. 120 per mensem. B then sues to enforce specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(*g*). *Against whom Contracts may be specifically enforced.*

Relief against parties and persons claiming under them by subsequent title.

27. Except as otherwise provided by this chapter, specific performance of a contract may be enforced against—

(*a*) either party thereto;

(*b*) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;

(*c*) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;

(*d*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation;

(*e*) when the promoters of a public company have, before its incorporation, entered into a contract, the company: provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

Illustrations

to clause (*b*).—A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rs. 5,000. A afterwards conveys the land for Rs. 6,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rs. 5,000. B takes possession of the land. Afterwards A sells it to C for Rs. 6,000. C makes no enquiry of B relating to his interest in the land. B's possession is sufficient to affect C with notice of his interest, and he may enforce specific performance of the contract against C.

A contracts in consideration of Rs. 1,000, to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce specific performance of the contract against C.

A contracts to sell certain land to B. Before the completion of the contract, A becomes a lunatic and C is appointed his committee. B may specifically enforce the contract against C.

to clause (*c*).—A, the tenant for life of an estate, with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alien in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.

(*h*). *Against whom Contracts cannot be specifically enforced.*

What parties cannot be compelled to perform.

28. Specific performance of a contract cannot be enforced against a party thereto in any of the following cases:—

(*a*) if the consideration to be received by him is so grossly inadequate, with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud or of undue advantage taken by the plaintiff;

(*b*) if his assent was obtained by the misrepresentation (whether wilful or innocent), concealment, circumvention, or unfair practices, of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled;

(*c*) if his assent was given under the influence of mistake of fact, misapprehension or surprise: Provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision and the contract may be specifically enforced in other respects if proper to be so enforced.

Illustrations

to clause (*c*).—A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 20 bighás of this land, but the auctioneer inadvertently sells the whole to B, who has not notice of the revocation. B cannot enforce specific performance of the agreement.

(*i*). *The Effect of dismissing a Suit for Specific Performance.*

Bar of suit for breach after dismissal.

29. The dismissal of a suit for specific performance of a contract or part thereof shall bar the plaintiff's right to sue for compensation for the breach of such contract or part, as the case may be.

(*j*). *Awards and Directions to execute Settlements.*

Application of preceding sections to awards and testamentary directions to execute settlements.

30. The provisions of this chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

CHAPTER III.

OF THE RECTIFICATION OF INSTRUMENTS.

When instrument may be rectified.

31. When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest, may institute a suit to have the instrument rectified; and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument, and ascertain the real intention of the parties in executing the same, the Court may in its discretion rectify the instrument, so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons, in good faith and for value.

Illustrations.

(*a*). A, intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included. Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud. The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(*b*). By a marriage-settlement, A, the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators and assigns, during A's life, an annuity of Rs. 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children, may rectify the settlement and decree that the assignee has no right to any part of the annuity.

Presumption as to intent of parties.

32. For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

Principles of rectification.

33. In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

Specific enforcement of rectified contract.

34. A contract in writing may be first rectified and then, if the plaintiff has so prayed in his plaint and the Court thinks fit, specifically enforced.

Illustration.

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs. The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks fit, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

CHAPTER IV.

OF THE RESCISSION OF CONTRACTS.

When rescission may be adjudged.

35. Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court in any of the following cases, namely:—

(*a*) where the contract is voidable or terminable by the plaintiff;

(*b*) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff;

(*c*) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him as such possessor.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract either so far as regards the party in default, or altogether, as the justice of the case may require.

Illustrations

to (*a*).—A sells a field to B. There is a right of way over the field of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (*b*).—A, an attorney, induces his client B, a Hindú widow, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

Rescission for mistake.

36. Rescission of a contract in writing cannot be adjudged for mere mistake, unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

Alternative prayer for rescission in suit for specific performance.

37. A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the Court, if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

Court may require party rescinding to do equity.

38. On adjudging the rescission of a contract, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

CHAPTER V.

OF THE CANCELLATION OF INSTRUMENTS.

When cancellation may be ordered.

39. Any person against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

If the instrument has been registered under the Indian Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

Illustrations.

(*a*). A, the owner of a ship, by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(*b*). A conveys land to B, who bequeaths it to C and dies. Thereupon D gets possession of the land and produces a forged instrument stating that the conveyance was made to B in trust for him. C may obtain the cancellation of the forged instrument.

(*c*). A, representing that the tenants on his land were all at will, sells it to B, and conveys it to him by an instrument dated the 1st January 1877. Soon after that day, A fraudulently grants to C a lease of part of the lands dated the 1st October 1876, and procures the lease to be registered under the Indian Registration Act. B may obtain the cancellation of this lease.

(*d*). A agrees to sell and deliver a ship to B, to be paid for by B's acceptances of four bills of exchange, for sums amounting to Rs. 30,000, to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered, according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all the bills.

What instruments may be partially cancelled.

40. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part and allow it to stand for the residue.

Illustration.

A draws a bill on B, who endorses it to C, by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

Power to require party for whom instrument is cancelled to make compensation.

41. On adjudging the cancellation of an instrument, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

CHAPTER VI.

OF DECLARATORY DECREES.

Discretion of Court as to declarations of status or right.

42. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

Bar to such declaration.

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

EXPLANATION.—A trustee of property is a 'person interested to deny' a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

Illustrations.

(*a*). A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(*b*). A bequeaths his property to B, C and D, 'to be equally divided amongst all and each of them, if living at the time of my death, then amongst their surviving children.' No such children are in existence. In a suit against A's executor, the Court may declare whether B, C and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

(*c*). A covenants that if he should at any time be entitled to property exceeding one lákh of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(*d*). A alienates to B property in which A has merely a life-interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(*e*). The widow of a sonless Hindú alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survive her, may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity and was therefore void beyond the widow's lifetime.

(*f*). A Hindú widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death without a son may, in a suit against the adopted son, obtain a declaration that the adoption was invalid.

(*g*). A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.

(*h*). A bequeaths property to B for his life, with remainder to B's wife and her children, if any, by B, but if B die without any wife or children, to C. B has a putative wife, D, and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C and obtain therein a declaration that they are truly the wife and children of B.

Effect of declaration.

43. A declaration made under this chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

Illustration.

A, a Hindú, in a suit to which B, his alleged wife, and her mother are defendants, seeks a declaration that his marriage was duly solemnized and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

CHAPTER VII.

OF THE APPOINTMENT OF RECEIVERS.

Appointment of receivers discretionary.

44. The appointment of a Receiver pending a suit is a matter resting in the discretion of the Court.

Reference to Code of Civil Procedure.

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

CHAPTER VIII.

OF THE ENFORCEMENT OF PUBLIC DUTIES.

Power to order public servants and others to do certain specific acts.

45. Any of the High Courts of Judicature at Fort William, Madras and Bombay may make an order requiring any specific act to be done or forborne, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office, whether of a permanent or a temporary nature, or by any corporation or inferior Court of Judicature: provided—

(*a*) that an application for such order be made by some person whose property, franchise, or personal right, would be injured by the forbearing or doing (as the case may be) of the said specific act;

(*b*) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character;

(*c*) that, in the opinion of the High Court, such doing or forbearing is consonant to right and justice;

(*d*) that the applicant has no other specific and adequate legal remedy; and

(*e*) that the remedy given by the order applied for will be complete.

Exemptions from such power.

Nothing in this section shall be deemed to authorize any High Court—

(*f*) to make any order binding on the Secretary of State for India in Council, on the Governor General in Council, on the Governor of Madras in Council, on the Governor of Bombay in Council, or on the Lieutenant-Governor of Bengal;

(*g*) to make any order on any other servant of the Crown, as such, merely to enforce the satisfaction of a claim upon the Crown; or

(*h*) to make any order which is otherwise expressly excluded by any law for the time being in force.

Application how made.

46. Every application under section 45 must be founded on an affidavit of the person injured, stating his right in the matter in question, his demand of justice and the denial thereof; and the

Procedure thereon.

High Court may, in its discretion, make the order applied for absolute in the first instance, or refuse it, or grant a rule to show cause why the order applied for should not be made.

Order in alternative.

If, in the last case, the person, Court or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

Peremptory order.

47. If the person, Court or corporation to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act absolutely.

Execution of, and appeal from, orders.

48. Every order under this chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

Costs.

49. The costs of all applications and orders under this chapter shall be in the discretion of the High Court.

Bar to issue of *mandamus*.

50. Neither the High Court nor any Judge thereof shall hereafter issue any writ of *mandamus*.

Power to frame rules.

51. Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure under this chapter; and until such rules are framed, the practice of such Court as to applications for and grants of writs of *mandamus* shall apply, so far as may be practicable, to applications and orders under this chapter.

PART III.

OF PREVENTIVE RELIEF.

CHAPTER IX.

OF INJUNCTIONS GENERALLY.

Preventive relief how granted.

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

53. Temporary injunctions are such as are to continue until a specified time, or until the further order of the Court. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

Temporary injunctions.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit: the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

Perpetual injunctions.

CHAPTER X.

OF PERPETUAL INJUNCTIONS.

54. Subject to the other provisions contained in, or referred to by, this chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

Perpetual injunctions when granted.

When such obligation arises from contract, the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely):—

(*a*) where the defendant is trustee of the property for the plaintiff;

(*b*) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;

(*c*) where the invasion is such that pecuniary compensation would not afford adequate relief;

(*d*) where it is probable that pecuniary compensation cannot be got for the invasion;

(*e*) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

EXPLANATION.—For the purpose of this section a trademark is property.

Illustrations.

(*a*). A lets certain land to B, and B contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(*b*). A trustee threatens a breach of trust. His co-trustees if any, should, and the beneficial owners may, sue for an injunction to prevent the breach.

(*c*). The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may sue for an injunction to restrain them.

(*d*). The directors of a fire and life-insurance company are about to engage in marine insurances. Any of the shareholders may sue for an injunction to restrain them.

(*e*). A, an executor, through misconduct or insolvency, is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

(*f*). A, a trustee for B, is about to make an imprudent sale of a small part of the trust-property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(*g*). A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(*h*). In the course of A's employment as a vakíl, certain papers belonging to his client, B, come into his possession. A threatens to make these papers public, or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(*i*). A is B's medical adviser. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(*j*). A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from so doing.

(*k*). A lets certain arable lands to B for purposes of husbandry, but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(*l*). A, B and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership-property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(*m*). A, a Hindú widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir-expectant may sue for an injunction to restrain her.

(*n*). A, B and C are members of an undivided Hindú family. A cuts timber growing on the family-property, and threatens to destroy part of the family-house and to sell some of the family-utensils. B and C may sue for an injunction to restrain him.

(*o*). A, the owner of certain houses in Calcutta, becomes insolvent. B buys them from the official assignee and enters into possession. A persists in trespassing on and damaging the houses, and B is thereby compelled, at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(*p*). The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(*q*). A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(*r*). A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(*s*). A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(*t*). A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(*u*). A infringes B's patent. If the Court is satisfied that the patent is valid and has been infringed, B may obtain an injunction to restrain the infringement.

(*v*). A pirates B's copyright. B may obtain an injunction to restrain the piracy, unless the work of which copyright is claimed is libellous or obscene.

(*w*). A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(*x*). A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(*y*). A, a very eminent man, writes letters on family-topics to B. After the death of A and B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D, who is A's executor, has a property in the letters, and may sue for an injunction to restrain C from publishing them.

(*z*). A carries on a manufactory and B is his assistant. In the course of his business, A imparts to B a secret process of value. B afterwards demands money of A, threatening, in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process.

55. When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the Court is capable of enforcing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

Mandatory injunctions.

Illustrations.

(*a*). A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Indian Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(*b*). A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(*c*). In the case put as illustration (*i*) to section 54, the Court may also order all written communications made by B, as patient, to A, as medical adviser, to be destroyed.

(*d*). In the case put as illustration (*y*) to section 54, the Court may also order A's letters to be destroyed.

(*e*). A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Indian Penal Code. The Court may grant an injunction to restrain the publication, even though it may be shown not to be injurious to B's property.

(*f*). A, being B's medical adviser, threatens to publish B's written communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(*g*). In the cases put as illustrations (*v*) and (*w*) to section 54, and as illustrations (*e*) and (*f*) to this section, the Court may also order the copies produced by piracy, and the trademarks, statements and communications therein respectively mentioned, to be given up or destroyed.

56. An injunction cannot be granted—

Injunction when refused.

(*a*) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;

(*b*) to stay proceedings in a Court not subordinate to that from which the injunction is sought;

(*c*) to restrain persons from applying to any legislative body;

(*d*) to interfere with the public duties of any department of the Government of India or the Local Government, or with the sovereign acts of a Foreign Government;

(*e*) to stay proceedings in any criminal matter;

(*f*) to prevent the breach of a contract the performance of which would not be specifically enforced;

(*g*) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;

(*h*) to prevent a continuing breach in which the applicant has acquiesced;

(*i*) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust;

(*j*) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;

(*k*) where the applicant has no personal interest in the matter.

Illustrations.

(*a*). A seeks an injunction to restrain his partner, B, from receiving the partnership-debts and effects. It appears that A had improperly possessed himself of the books of the firm and refused B access to them. The Court will refuse the injunction.

(*b*). A manufactures and sells crucibles, designating them as "patent plumbago crucibles," though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(*c*). A sells an article called "Mexican Balm," stating that it is compounded of divers rare essences, and has sovereign medicinal qualities. B commences to sell a similar article to which he gives a name and description such as to lead people into the belief that they are buying A's Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A's Mexican Balm consists of nothing but scented hog's lard. A's use of his description is not an honest one, and he cannot obtain an injunction.

57. Notwithstanding section 56, clause (*f*), where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement, shall not preclude it from granting an injunction to perform the negative agreement; provided that the applicant has not failed to perform the contract so far as it is binding on him.

Injunctions to perform negative agreement.

Illustrations.

(*a*). A contracts to sell to B for Rs. 1,000 the good-will of a certain business unconnected with business-premises, and further agrees not to carry on that business in Calcutta. B pays A the Rs. 1,000, but A carries on the business in Calcutta. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Calcutta.

(*b*). A contracts to sell to B the good-will of a business. A then sets up a similar business close by B's shop, and solicits his old customers to deal with him. This is contrary to his implied contract, and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(*c*). A contracts with B to sing for twelve months at B's theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of public entertainment.

(*d*). B contracts with A that he will serve him faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival-house as clerk.

(*e*). A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance. B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

SCHEDULE.

(*See section* 2.)

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
VIII of 1859	Civil Procedure ...	Sections 15 and 192.
XIV of 1859	Limitation	Section 15.
XXIII of 1861	Civil Procedure ...	Section 26.
IX of 1872	Contract	In section 28, the second clause of Exception 1.

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

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th February 1877, and is hereby promulgated for general information :—

ACT No. II OF 1877.

An Act to amend Act No. XIII of 1875.

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

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

2. Nothing in this Act shall be deemed to affect the validity of any grant of probate or letters of administration with effect throughout the whole of British India heretofore made by any Court other than the Courts specified in section one. Saving of certain grants of probate and administration.

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

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th February 1877, and is hereby promulgated for general information :—

ACT No. III OF 1877.

THE INDIAN REGISTRATION ACT, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4. Inspector General of Registration.
Branch Inspector General of Sindh.
5. Districts and Sub-Districts.
6. Registrars and Sub-Registrars.
7. Offices of Registrar and Sub-Registrar.
8. Inspectors of Registration Offices.
9. Military Cantonments may be declared Sub-Districts or Districts.
10. Absence of Registrar from his District or vacancy in his office.
11. Absence of Registrar on duty in his District.
12. Absence of Sub-Registrar or vacancy in his office.
13. Appointments under section 10, 11 or 12 to be reported to Government.
Suspension, removal and dismissal of Officers.
14. Remuneration and establishments of registering officers.
15. Seals of registering officers.
16. Register-books.
Forms.
Fire-proof boxes.

PART III.

OF REGISTRABLE DOCUMENTS.

17. Documents of which registration is compulsory.
Exception of composition-deeds;
and of transfers of shares and debentures in Land Companies.
Authorities to adopt.
18. Documents of which registration is optional.
19. Documents in language not understood by registering officer.
20. Documents containing interlineations, blanks, erasures or alterations.
21. Description of parcels.
Documents containing maps or plans.
22. Failure to comply with rules as to description of houses and land.

PART IV.

OF THE TIME OF PRESENTATION.

23. Time for presenting documents.
24. Provision where delay in presentation is unavoidable.
25. Documents executed out of British India.
26. Provision where office is closed on last day of period for presentation.
27. Wills may be presented or deposited at any time.

PART V.

OF THE PLACE OF REGISTRATION.

28. Place for registering documents relating to land.
29. Place for registering other documents.
30. Registration by Registrar.
Registration by Registrar at Presidency Town.
31. Registration or acceptance for deposit at private residence.

PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Persons to present documents for registration.
33. Powers-of-attorney recognizable for purposes of section 32.
Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

SECTIONS.

34. Enquiry before registration by registering officer.
35. Procedure on admission of execution.
Procedure on denial of execution, &c.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

36. Procedure where appearance of executant or witness is desired.
37. Officer or Court to issue and cause service of summons.
38. Persons exempt from appearance at Registration Office.
39. Law as to summonses, commissions and witnesses.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. Persons entitled to present Wills and Authorities to adopt.
41. Registration of Wills and Authorities to adopt.

PART IX.

OF THE DEPOSIT OF WILLS.

42. Deposit of Wills.
43. Procedure on deposit of Wills.
44. Withdrawal of sealed cover deposited under section 42.
45. Proceedings on death of depositor.
Re-deposit.
46. Saving of Act X of 1865, section 259.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. Time from which registered document operates.
48. Registered documents relating to property when to take effect against oral agreements.
49. Effect of non-registration of documents required to be registered.
50. Registered documents relating to land, of which registration is optional, to take effect against unregistered documents.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(*A.*) *As to the Register Books and Indexes.*

51. Register-books to be kept in the several offices.
52. Endorsements on document presented.
Receipt for document.
Documents admitted to registration to be copied.
53. Entries to be numbered consecutively.
54. Current Indexes and entries therein.
55. Indexes to be made by registering officers.
Extra particulars in Indexes.
56. Copy of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.
Such copy to be filed by Registrar.
57. Registering officers to allow inspection of certain Books and Indexes, and to give certified copies of entries.

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

58. Particulars to be endorsed on documents admitted to registration.
59. Such endorsements to be dated and signed by registering officer.
60. Certificate showing that document has been registered, and number and page of book in which it has been copied.
61. Endorsements and certificate to be copied.
Document to be returned.
62. Procedure on presenting document in language unknown to registering officer.
63. Power to administer oaths.
Record of substance of statements.

(*C.*) *Special Duties of Sub-Registrar.*

64. Procedure on registration of document relating to land situate in several Sub-Districts.
65. Procedure where document relates to land situate in several Districts.

(*D.*) *Special Duties of Registrar.*

66. Procedure on registering documents relating to land.
67. Procedure on registration under section 30, clause (*b*).

(*E.*) *Of the Controlling Powers of Registrars and Inspectors General.*

68. Registrar to superintend and control Sub-Registrars.
69. Inspector General to superintend Registration Offices.
His power to make rules.
70. His power to remit fines.

PART XII.

OF REFUSAL TO REGISTER.

71. Reasons for refusal to register to be recorded.
72. Power to reverse or alter orders of Sub-Registrar refusing registration on ground other than denial of execution.
73. Application where Sub-Registrar refuses to register on ground of denial of execution.
74. Procedure of Registrar on such application.
75. Order of Registrar and procedure thereon.
76. Refusal by Registrar.
77. Suit in case of refusal.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

78. Fees to be fixed by Local Government.
Alteration of fees.
79. Publication of fees.
80. Fees payable on presentation.

PART XIV.

OF PENALTIES.

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

SECTIONS.

82. Penalty for certain other offences.
Making false statements before registering officer.
Delivering false copy or translation.
False personation.
Abetment of offences under Act.
83. Registering officer may institute prosecutions.
84. Registering officers to be deemed public servants.

PART XV.

MISCELLANEOUS.

85. Destruction of unclaimed documents.
86. Registering officer not liable for thing *bond fide* done or refused in his official capacity.
87. Nothing so done invalidated by defect in appointment or procedure.
88. Registration of documents executed by Government officers or certain public functionaries.
89. Certificates under Land Improvement Act, 1871.

Exemptions from Act.

90. Exemption of certain documents executed by or in favour of Government.
91. Inspection and copies of such documents.
92. Burmese registration rules confirmed.

An Act for the Registration of Documents.

WHEREAS it is expedient to amend the law relating to the registration of documents; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Indian Registration Act, 1877:" Short title.

It extends to the whole of British India, except such districts or tracts of country as the Local Government may from time to time, with the previous sanction of the Governor General in Council, exclude from its operation; Local extent.

And it shall come into force on the first day of April 1877. Commencement.

2. On and from that day Act No. VIII of 1871 shall be repealed. Repeal of enactments.

But all appointments, notifications, rules and orders made, and all Districts and Sub-districts formed, and all offices established, and all tables of fees prepared, under such Act or any of the enactments thereby repealed shall be deemed to have been respectively made, formed, established and prepared under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of April 1877, to the said Act, or to any enactment thereby repealed, shall be read as if made to the corresponding section of this Act.

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

"Lease" includes a counterpart, kabúliyat, an undertaking to cultivate or occupy, and an agreement to lease: "Lease."

"Signature" and "signed" include and apply to the affixing of a mark: "Signature." "Signed."

"Immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to any thing which is attached to the earth, but not standing timber, growing crops, nor grass: "Immoveable property."

"Moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property: "Moveable property."

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book: "Book."

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act: "Endorsement." "Endorsed."

"Minor" means a person who, according to the personal law to which he is subject, has not attained majority: "Minor."

"Representative" includes the guardian of a minor and the Committee or other legal curator of a lunatic or idiot: "Representative."

"Addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name: "Addition."

"District Court" includes the High Court in its ordinary original civil jurisdiction; and "District Court."

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act. "District." "Sub-District."

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4. The Local Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government, Inspector General of Registration.

or may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits, as the Local Government from time to time appoints in this behalf.

The Governor of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred. Branch Inspector General of Sindh.

Any Inspector General or the Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Government shall form Districts and Sub-Districts, and shall prescribe, and may from time to time alter, the limits of such Districts and Sub-Districts. Districts and Sub-Districts.

The Districts and Sub-Districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

6. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively. Registrars and Sub-Registrars.

7. The Local Government shall establish in every District an office to be styled the Office of the Registrar and in every Sub-District an office or offices to be styled the Office of the Sub-Registrar, or the Offices of the Joint Sub-Registrars, and may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, Offices of Registrar and Sub-Registrar.

and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate:

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

8. The Local Government may also appoint officers to be called Inspectors of Registration Offices, and may from time to time prescribe the duties of such officers. Every such Inspector shall be subordinate to the Inspector General. Inspectors of Registration Offices.

9. Every military cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be, for the purposes of this Act, a Sub-District or a District, and such Magistrate shall be the Sub-Registrar or the Registrar of such Sub-District or District, as the case may be. Military cantonments may be declared Sub-Districts or Districts.

Whenever the Governor General in Council declares any military cantonment beyond the limits of British India to be a Sub-District or a District for the purposes of this Act, he shall also declare, in the case of a Sub-District, what authorities shall be Registrar of the District and Inspector General, and in the case of a District, what authority shall be Inspector General, with reference to such cantonment and the Sub-Registrar or Registrar thereof.

10. Whenever any Registrar other than the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant, Absence of Registrar from his District or vacancy in his office.

any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situate,

shall be the Registrar during such absence or until the Local Government fills up the vacancy.

Whenever the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

11. Whenever any Registrar is absent from his office on duty in his District, he may appoint any Sub-Registrar or other person in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in sections 68 and 72. Absence of Registrar on duty in his District.

12. Whenever any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the District appoints in this behalf shall be Sub-Registrar during such absence, or until the Local Government fills up the vacancy. Absence of Sub-Registrar or vacancy in his office.

13. All appointments made under section 10, section 11, or section 12 shall be reported to the Local Government by the Inspector General. Such report shall be either special or general, as the Local Government directs. Appointments under section 10, 11 or 12 to be reported to Government.

The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead. Suspension, removal and dismissal of officers.

14. Subject to the approval of the Governor General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries. Remuneration and establishments of registering officers.

The Local Government may allow proper establishments for the several Offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the Registrar (*or* of the Sub-Registrar) of ." Seals of registering officers.

16. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act. Register-books.

The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

Forms.

The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each District make suitable provision for the safe custody of the records connected with the registration of documents in such District.

Fire-proof boxes.

PART III

OF REGISTRABLE DOCUMENTS.

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a District in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or Act No. XX of 1866, or Act No. VIII of 1871, or this Act came or comes into force (that is to say),—

Documents of which registration is compulsory.

(*a*) Instruments of gift of immoveable property:

(*b*) Other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property:

(*c*) Non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(*d*) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any District, or part of a District, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

Exception of composition-deeds;

Nothing in clauses (*b*) and (*c*) of this section applies to (*e*) any composition-deed,

and of transfers of shares and debentures in Land Companies.

(*f*) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property, or

(*g*) any endorsement upon or transfer of any debenture issued by any such Company,

documents merely creating right to obtain other documents.

(*h*) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will when executed create, declare, assign, limit or extinguish any such right, title or interest,

(*i*) decrees and orders of Courts and awards,

(*j*) grants of immoveable property by Government,

(*k*) instruments of partition made by revenue officers,

(*l*) certificates and instruments of collateral security granted under the Land Improvement Act, 1871.

Authorities to adopt.

Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.

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

Documents of which registration is optional.

(*a*) Instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property:

(*b*) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest:

(*c*) Leases of immoveable property for any term not exceeding one year, and leases exempted under section 17:

(*d*) Instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property:

(*e*) Wills:

(*f*) All other documents not required by section 17 to be registered.

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

Documents in language not understood by registering officer.

20. The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

Documents containing interlineations, blanks, erasures or alterations.

21. (*a*) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

Description of parcels.

(*b*) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(*c*) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several Districts, by such number of true copies of the map or plan as are equal to the number of such Districts.

Documents containing maps or plans.

22. Failure to comply with the provisions contained in section 21, clause (*b*), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

Failure to comply with rules as to description of houses and land.

PART IV.

OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections 24, 25 and 26, no document other than a will, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution,

Time for presenting documents.

or, in the case of a copy of a decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final:

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

24. If owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Provision where delay in presentation is unavoidable.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

25. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registering Officer, if satisfied,

Documents executed out of British India.

(*a*) that the instrument was so executed, and

(*b*) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration fee, accept such document for registration.

26. Whenever a registration-office is closed on the last day of any period provided in this Act for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

Provision where office is closed on last day of period for presentation.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

Wills may be presented or deposited at any time.

PART V.

OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section 17, clauses (*a*), (*b*), (*c*) and (*d*), and section 18, clauses (*a*), (*b*) and (*c*), shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

Place for registering documents relating to land.

29. Every document other than a document referred to in section 28 and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

Place for registering other documents.

A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose Sub-District the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

30. (*a*) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

Registration by Registrar.

(*b*.) The Registrar of a District including a Presidency Town and the Registrar of the Lahore District may receive and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.

Registration by Registrar at Presidency Town and Lahore.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

Registration or acceptance for deposit at private residence.

But such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office,

Persons to present documents for registration.

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. For the purposes of section 32, the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say),—

Powers of attorney recognizable for purposes of section 32.

(*a*) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides:

(*b*) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate:

(*c*) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India:

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (*a*) and (*b*) of this section:—

Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;

persons who are in jail under civil or criminal process; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Magistrate (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Any power-of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

34. Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26:

Enquiry before registration by registering officer.

Provided that if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration-fee in addition to the fine, if any, payable under section 24, the document may be registered.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon—

(*a*) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(*b*) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(*c*) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

Any application for a direction under the proviso in this section may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

Nothing in this section applies to copies of decrees or orders.

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

Procedure on admission of execution.

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

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61, inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

If any of the persons by whom the document purports to be executed deny its execution,

Procedure on denial of execution, &c.

or if any such person appears to be a minor, an idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document: Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII of this Act.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

36. If any person presenting any document for registration, or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

Procedure where appearance of executant or witness is desired.

37. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Officer or Court to issue and cause service of summons.

38. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office,

Persons exempt from appearance at registration office.

a person in jail under civil or criminal process,

and persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office,

shall not be required so to appear.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

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

Law as to summonses, commissions and witnesses.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. The testator or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration,

Persons entitled to present wills and authorities to adopt.

and the donor or after his death the donee of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

41. A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

Registration of wills and authorities to adopt.

A will or authority to adopt presented for registration by any other person entitled to present it, shall be registered if the registering officer is satisfied,

(*a*) that the will or authority was executed by the testator or donor, as the case may be,

(*b*) that the testator or donor is dead, and

(*c*) that the person presenting the will or authority is, under section 40, entitled to present the same.

PART IX.

OF THE DEPOSIT OF WILLS.

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

Deposit of wills.

43. On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register Book No. 5 the superscription aforesaid and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

Procedure on deposit of wills.

The Registrar shall then place and retain the sealed cover in his fire-proof box.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply either personally or by duly authorized agent to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Withdrawal of sealed cover deposited under section 42.

45. If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

Proceedings on death of depositor.

When such copy has been made, the Registrar shall re-deposit the original will.

Re-deposit.

46. Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, section 259, or the power of any Court by order to compel the production of any will. But whenever any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

Saving of Act X of 1865, section 259.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

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

Time from which registered document operates.

48. All non-testamentary documents duly registered under this Act, and relating to any property whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Registered documents relating to property when to take effect against oral agreements.

49. No document required by section 17 to be registered,

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

shall affect any immoveable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

Registered documents relating to land, of which registration is optional, to take effect against unregistered documents.

50. Every document of the kinds mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of section 17, and clauses (*a*) and (*b*) of section 18, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

Nothing in the former part of this section applies to leases exempted under the proviso in section 17, or to the documents mentioned in clauses (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*) and (*l*) of the same section.

Explanation.—In cases where Act No. XVI of 1864 or Act No. XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under Act No. VIII of 1871 or this Act.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(*A*). *As to the Register Books and Indexes.*

Register-books to be kept in the several offices.

51. The following Books shall be kept in the several offices hereinafter named (that is to say)—

In all registration offices—

Book 1, "Register of non-testamentary documents relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

Book 3, "Register of wills and authorities to adopt;" and

Book 4, "Miscellaneous Register."

In the offices of Registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under sections 17, 18 and 87 which relate to immoveable property, and are not wills.

In Book 4 shall be entered all documents registered under clauses (*d*) and (*f*) of section 18, which do not relate to immoveable property.

Nothing in the former part of this section shall be deemed to require more than one set of books where the Office of the Registrar has been amalgamated with the Office of a Sub-Registrar.

Endorsements on document presented. Receipt for document.

52. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it: a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

Documents admitted to registration to be copied.

And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector General.

Entries to be numbered consecutively.

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

Current indexes and entries therein.

54. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

Indexes to be made by registering officers.

55. Four such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III, and Index No. IV.

Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.

Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book No. 4.

Extra particulars in indexes.

Indexes Nos. I, II, III and IV shall contain such other particulars, and shall be prepared in such form, as the Inspector General from time to time directs.

Copy of entries in Indexes Nos. I, II and III to be sent by Sub-Registrar to Registrar.

56. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a copy of all entries made by such Sub-Registrar, during the last of such intervals, in Indexes Nos. I, II and III.

Such copy to be filed by Registrar.

Every Registrar receiving such copy shall file it in his office.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

57. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and subject to the provisions of section 62, copies of entries in such books shall be given to all persons applying for such copies.

Subject to the same provisions, copies of entries in Book No. 3 and in the index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

Subject to the same provisions, copies of entries in Book No. 4 and in the index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative. The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

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

Particulars to be endorsed on documents admitted to registration.

58. On every document admitted to registration, other than a copy of a decree or order, or a copy of a certificate under the Land Improvement, Act, 1871, sent by the Collector to be registered, there shall be endorsed from time to time the following particulars (that is to say),—

(*a*) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(*b*) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(*c*) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

Such endorsements to be dated and signed by registering officer.

59. The registering officer shall affix the date and his signature to all endorsements made under sections 58 and 58, relating to the same document and made in his presence on the same day.

Certificate showing that document has been registered, and number and page of book in which it has been copied.

60. After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

Endorsements and certificate to be copied.

61. The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

Document to be returned.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

Procedure on presenting document in language unknown to registering officer.

62. When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in section 19, shall be filed in the registration office.

The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and for the purpose of making the copies and memoranda required by sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

Power to administer oaths.

63. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Record of substance of statements.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(*C*). *Special Duties of Sub-Registrar.*

Procedure on registration of document relating to land situate in several Sub-Districts.

64. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property not wholly situate in his own Sub-District, shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

Procedure where document relates to land situate in several districts.

65. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property situate in more districts than one, shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any) mentioned in section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own Sub-District is situate.

The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward

a memorandum of the document to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D). Special Duties of Registrar.

Procedure on registering documents relating to land.

66. On registering any non-testamentary document relating to immoveable property, the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose Sub-District any part of the property is situate.

He shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose Sub-District any part of the property is situate.

Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

Procedure on registration under section 30, clause (*b*).

67. On any document being registered under section 30, clause (*b*), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in the first clause of section 66.

(E). Of the controlling Powers of Registrars and Inspectors General.

Registrar to superintend and control Sub-Registrars.

68. Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document shall have been registered.

Inspector General to superintend registration offices.

His power to make rules.

69. The Inspector General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to make rules consistent with this Act—

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

declaring what languages shall be deemed to be commonly used in each district;

declaring what territorial divisions shall be recognized under section 21;

regulating the amount of fines imposed under sections 24 and 34, respectively;

regulating the exercise of the discretion reposed in the registering officer by section 63;

regulating the form in which registering officers are to make memoranda of documents;

regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51;

declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively;

declaring the holidays that shall be observed in the registration offices;

and, generally, regulating the proceedings of the Registrars and Sub-Registrars.

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

His power to remit fines.

70. The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 24 or section 34 and the amount of the proper registration fee.

PART XII.

OF REFUSAL TO REGISTER.

Reasons for refusal to register to be recorded.

71. Every Sub-Registrar refusing to register a document,

except on the ground that the property to which it relates is not situate within his Sub-District,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

Power to reverse or alter orders of Sub-Registrar refusing registration on ground other than denial of execution.

72. Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order:

and if the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

Application where Sub-Registrar refuses to register on ground of denial of execution.

73. When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution,

any person claiming under such document, or his representative, assign or agent authorized as

aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

Such application shall be in writing and shall be accompanied by a copy of the reason recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

Procedure of Registrar on such application.

74. In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, he shall as soon as conveniently may be enquire—

(*a*) whether the document has been executed;

(*b*) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration as the case may be, so as to entitle the document to registration.

Order to register and procedure thereon.

75. If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

And if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

Refusal by Registrar.

76. Every Registrar refusing—

(*a*) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or

(*b*) to direct the registration of a document under section 72 or section 75,

shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

No appeal lies from any order under this section or section 72.

Suit in case of refusal.

77. Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office, if it be duly presented for registration within thirty days after the passing of such decree; and the provisions contained in the second and third paragraphs of section 75, shall, *mutatis mutandis*, apply to all documents so presented, and notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

Fees to be fixed by Local Government.

78. Subject to the approval of the Governor General in Council, the Local Government shall prepare a table of fees payable—

for the registration of documents:

for searching the registers:

for making or granting copies of reasons, entries or documents, before, on or after registration:

And of extra or additional fees payable—

for every registration under section thirty:

for the issue of commissions:

or filing translations:

for attending at private residences:

for the safe custody and return of documents:

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

Alteration of fees.

The Local Government may from time to time, subject to the like approval, alter such table.

Publication of fees.

79. A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

Fees payable on presentation.

80. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

PART XIV.

OF PENALTIES.

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

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

Penalty for certain other offences.

82. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both:

Making false statements before registering officer.

(*a*) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act,

Delivering false copy or translation.

(*b*) intentionally delivers to a registering officer in any proceeding under section 19 or section 21 a false copy or translation of a document, or a false copy of a map or plan,

(*c*) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act,

False personation.

(*d*) abets within the meaning of the Indian Penal Code anything made punishable by this Act.

Abetment of offences under this Act.

83. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, in whose territories, District or Sub-District, as the case may be, the offence has been committed.

Registering officer may commence prosecutions.

Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Subordinate Magistrate of the first class:

Provided that, in imposing penalties under this Act, no such Court or officer shall exceed the limits of jurisdiction prescribed by the law for the time being in force as to such Court or officer.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the Presidency Towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such Towns for the time being in force.

84. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Registering officers to be deemed public servants.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in section 228 of the same Code, the words "judicial proceeding" shall include any proceeding under this Act.

A Registrar shall, but a Sub-Registrar shall not, as such, be deemed a Court within the meaning of sections 435 and 436 of the Code of Criminal Procedure.

PART XV.

MISCELLANEOUS.

85. Documents (other than wills) remaining unclaimed in any registration office, for a period exceeding two years, may be destroyed.

Destruction of unclaimed documents.

86. No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Registering officer not liable for thing *bonâ fide* done or refused in his official capacity.

87. Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing so done invalidated by defect in appointment or procedure.

88. Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee, or Official Assignee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

Registration of documents executed by Government officers or certain public functionaries.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary to Government or to such officer of Government, Administrator General, Official Trustee, Official Assignee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

89. Every officer granting a certificate under the Land Improvement Act, 1871, shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved, or of the land to be granted as collateral security, is situate, and such registering officer shall file the certificate in his book No. 1.

Certificates under Land Improvement Act, 1871.

Exemptions from Act.

90. Nothing contained in this Act or in Act No. VIII of 1871 or in any Act thereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps:—

Exemption of certain documents executed by or in favour of Government.

(*a*). Documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement.

(*b*). Documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey.

(*c*). Documents which, under any law for the time being in force, or filed periodically in any revenue office by patwáris or other officers charged with the preparation of village-records.

(*d*). Sanads, inám title-deeds and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land.

But all such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

91. Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in section 90, clauses (*a*), (*b*) and (*c*), and all registers of the documents mentioned in clause (*d*), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

Inspection and copies of such documents.

92. All rules relating to registration heretofore enforced in British Burma shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

Burmese registration-rules confirmed.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th February 1877, and is hereby promulgated for general information:—

ACT No. II OF 1877.

An Act to amend Act No. XIII of 1875.

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

Preamble.

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

'High 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.

2. Nothing in this Act shall be deemed to affect the validity of any grant of probate or letters of administration with effect throughout the whole of British India heretofore made by any Court other than the Courts specified in section one.

Saving of certain grants of probate and administration.

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

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th February 1877, and is hereby promulgated for general information:—

ACT No. III OF 1877.

THE INDIAN REGISTRATION ACT, 1877.

ARRANGEMENT OF SECTIONS.

PREAMBLE.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4. Inspector General of Registration.
   Branch Inspector General of Sindh.
5. Districts and Sub-Districts.
6. Registrars and Sub-Registrars.
7. Offices of Registrar and Sub-Registrar.
8. Inspectors of Registration Offices.
9. Military Cantonments may be declared Sub-Districts or Districts.
10. Absence of Registrar from his District or vacancy in his office.
11. Absence of Registrar on duty in his District.

SECTIONS.
12. Absence of Sub-Registrar or vacancy in his office.
13. Appointments under section 10, 11 or 12 to be reported to Government.
Suspension, removal and dismissal of Officers.
14. Remuneration and establishments of registering officers.
15. Seals of registering officers.
16. Register-books.
Forms.
Fire-proof boxes.

PART III.

OF REGISTRABLE DOCUMENTS.

17. Documents of which registration is compulsory.
Exception of composition-deeds;
and of transfers of shares and debentures in Land Companies.
Authorities to adopt.
18. Documents of which registration is optional.
19. Documents in language not understood by registering officer.
20. Documents containing interlineations, blanks, erasures or alterations.
21. Description of parcels.
Documents containing maps or plans.
22. Failure to comply with rules as to description of houses and land.

PART IV.

OF THE TIME OF PRESENTATION.

23. Time for presenting documents.
24. Provision where delay in presentation is unavoidable.
25. Documents executed out of British India.
26. Provision where office is closed on last day of period for presentation.
27. Wills may be presented or deposited at any time.

PART V.

OF THE PLACE OF REGISTRATION.

28. Place for registering documents relating to land.
29. Place for registering other documents.
30. Registration by Registrar.
Registration by Registrar at Presidency Town.
31. Registration or acceptance for deposit at private residence.

PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Persons to present documents for registration.
33. Powers-of-attorney recognizable for purposes of section 32.
Proviso as to persons infirm, or in jail, or exempt from appearing in Court.
34. Enquiry before registration by registering officer.
35. Procedure on admission of execution.
Procedure on denial of execution, &c.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

SECTIONS.
36. Procedure where appearance of executant or witness is desired.
37. Officer or Court to issue and cause service of summons.
38. Persons exempt from appearance at Registration Office.
39. Law as to summonses, commissions and witnesses.

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

40. Persons entitled to present Wills and Authorities to adopt.
41. Registration of Wills and Authorities to adopt.

PART IX.

OF THE DEPOSIT OF WILLS.

42. Deposit of Wills.
43. Procedure on deposit of Wills.
44. Withdrawal of sealed cover deposited under section 42.
45. Proceedings on death of depositor.
Re-deposit.
46. Saving of Act X of 1865, section 259.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. Time from which registered document operates.
48. Registered documents relating to property when to take effect against oral agreements.
49. Effect of non-registration of documents required to be registered.
50. Registered documents relating to land, of which registration is optional, to take effect against unregistered documents.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(*A.*) *As to the Register Books and Indexes.*
51. Register-books to be kept in the several offices.
52. Endorsements on document presented.
Receipt for document.
Documents admitted to registration to be copied.
53. Entries to be numbered consecutively.
54. Current Indexes and entries therein.
55. Indexes to be made by registering officers.
Extra particulars in Indexes.
56. Copy of entries in Indexes Nos. I and II to be sent by Sub-Registrar to Registrar.
Such copy to be filed by Registrar.

SECTIONS.
57. Registering officers to allow inspection of certain Books and Indexes, and to give certified copies of entries.

(*B.*) *As to the Procedure on admitting to Registration.*
58. Particulars to be endorsed on documents admitted to registration.
59. Such endorsements to be dated and signed by registering officer.
60. Certificate showing that document has been registered, and number and page of book in which it has been copied.
61. Endorsements and certificate to be copied.
Document to be returned.
62. Procedure on presenting document in language unknown to registering officer.
63. Power to administer oaths.
Record of substance of statements.

(*C.*) *Special Duties of Sub-Registrar.*
64. Procedure on registration of document relating to land situate in several Sub-Districts.
65. Procedure where document relates to land situate in several Districts.

(*D.*) *Special Duties of Registrar.*
66. Procedure on registering documents relating to land.
67. Procedure on registration under section 30, clause (*b*).

(*E.*) *Of the Controlling Powers of Registrars and Inspectors General.*
68. Registrar to superintend and control Sub-Registrars.
69. Inspector General to superintend Registration Offices.
His power to make rules.
70. His power to remit fines.

PART XII.

OF REFUSAL TO REGISTER.

71. Reasons for refusal to register to be recorded.
72. Power to reverse or alter orders of Sub-Registrar refusing registration on ground other than denial of execution.
73. Application where Sub-Registrar refuses to register on ground of denial of execution.
74. Procedure of Registrar on such application.
75. Order of Registrar and procedure thereon.
76. Refusal by Registrar.
77. Suit in case of refusal.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

78. Fees to be fixed by Local Government.
Alteration of fees.
79. Publication of fees.
80. Fees payable on presentation.

PART XIV.

OF PENALTIES.

SECTIONS.
81. Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.
82. Penalty for certain other offences.
Making false statements before registering officer.
Delivering false copy or translation.
False personation.
Abetment of offences under Act.
83. Registering officer may institute prosecutions.
84. Registering officers to be deemed public servants.

PART XV.

MISCELLANEOUS.

85. Destruction of unclaimed documents.
86. Registering officer not liable for thing *bond fide* done or refused in his official capacity.
87. Nothing so done invalidated by defect in appointment or procedure.
88. Registration of documents executed by Government officers or certain public functionaries.
89. Certificates under Land Improvement Act, 1871.

Exemptions from Act.
90. Exemption of certain documents executed by or in favour of Government.
91. Inspection and copies of such documents.
92. Burmese registration rules confirmed.

An Act for the Registration of Documents.

Preamble. WHEREAS it is expedient to amend the law relating to the registration of documents; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be called "The Indian Registration Act, 1877:"

Local extent. It extends to the whole of British India, except such districts or tracts of country as the Local Government may from time to time, with the previous sanction of the Governor General in Council, exclude from its operation;

Commencement. And it shall come into force on the first day of April 1877.

Repeal of enactments. **2.** On and from that day Act No. VIII of 1871 shall be repealed.

But all appointments, notifications, rules and orders made, and all Districts and Sub-districts formed, and all offices established, and all tables of fees prepared, under such Act or any of the enact-

ments thereby repealed shall be deemed to have been respectively made, formed, established and prepared under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of April 1877, to the said Act, or to any enactment thereby repealed, shall be read as if made to the corresponding section of this Act.

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

Interpretation-clause.

"Lease" includes a counterpart, kabúliyat, an undertaking to cultivate or occupy, and an agreement to lease:

"Lease."

"Signature" and "signed" include and apply to the affixing of a mark:

"Signature." "Signed."

"Immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to any thing which is attached to the earth, but not standing timber, growing crops, nor grass:

"Immoveable property."

"Moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property:

"Moveable property."

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Book."

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act:

"Endorsement." "Endorsed."

"Minor" means a person who, according to the personal law to which he is subject, has not attained majority:

"Minor."

"Representative" includes the guardian of a minor and the Committee or other legal curator of a lunatic or idiot:

"Representative."

"Addition" means the place of residence, and the profession, trade, rank and title (if any) of a person described, and, in the case of a Native, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name:

"Addition."

"District Court" includes the High Court in its ordinary original civil jurisdiction; and

"District Court."

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

"District." "Sub-District."

PART II.

OF THE REGISTRATION ESTABLISHMENT.

4. The Local Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government,

Inspector General of Registration.

or may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits, as the Local Government from time to time appoints in this behalf.

The Governor of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred.

Branch Inspector General of Sindh.

Any Inspector General or the Branch Inspector General of Sindh may hold simultaneously any other office under Government.

5. For the purposes of this Act, the Local Government shall form Districts and Sub-Districts, and shall prescribe, and may from time to time alter, the limits of such Districts and Sub-Districts.

Districts and Sub-Districts.

The Districts and Sub-Districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

6. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively.

Registrars and Sub-Registrars.

7. The Local Government shall establish in every District an office to be styled the Office of the Registrar and in every Sub-District an office or offices to be styled the Office of the Sub-Registrar, or the Offices of the Joint Sub-Registrars, and may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar,

Offices of Registrar and Sub-Registrar.

and may authorize any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate:

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

8. The Local Government may also appoint officers to be called Inspectors of Registration Offices, and may from time to time prescribe the duties of such officers. Every such Inspector shall be subordinate to the Inspector-General.

Inspectors of Registration Offices.

9. Every military cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be, for the purposes of this Act, a Sub-District or a District, and such Magistrate shall be the

Military cantonments may be declared Sub-Districts or Districts.

Sub-Registrar or the Registrar of such Sub-District or District, as the case may be.

Whenever the Governor General in Council declares any military cantonment beyond the limits of British India to be a Sub-District or a District for the purposes of this Act, he shall also declare, in the case of a Sub-District, what authorities shall be Registrar of the District and Inspector General, and in the case of a District, what authority shall be Inspector General, with reference to such cantonment and the Sub-Registrar or Registrar thereof.

10. Whenever any Registrar other than the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

Absence of Registrar from his District or vacancy in his office.

any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situate,

shall be the Registrar during such absence or until the Local Government fills up the vacancy.

Whenever the Registrar of a District including a Presidency Town is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

11. Whenever any Registrar is absent from his office on duty in his District, he may appoint any Sub-Registrar or other person in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in sections 68 and 72.

Absence of Registrar on duty in his District.

12. Whenever any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the District appoints in this behalf shall be Sub-Registrar during such absence, or until the Local Government fills up the vacancy.

Absence of Sub-Registrar or vacancy in his office.

13. All appointments made under section 10, section 11, or section 12 shall be reported to the Local Government by the Inspector General. Such report shall be either special or general, as the Local Government directs.

Appointments under section 10, 11 or 12 to be reported to Government.

The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

Suspension, removal and dismissal of officers.

14. Subject to the approval of the Governor General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

Remuneration and establishments of registering officers.

The Local Government may allow proper establishments for the several Offices under this Act.

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the Registrar (*or* of the Sub-Registrar) of ."

Seals of registering officers.

16. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act.

Register-books.

The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

Forms.

The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each District make suitable provision for the safe custody of the records connected with the registration of documents in such District.

Fire-proof boxes.

PART III.

OF REGISTRABLE DOCUMENTS.

17. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a District in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or Act No. XX of 1866, or Act No. VIII of 1871, or this Act came or comes into force (that is to say),—

Documents of which registration is compulsory.

(*a*) Instruments of gift of immoveable property:

(*b*) Other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property:

(*c*) Non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(*d*) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any District, or part of a District, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

Exception of composition-deeds;

Nothing in clauses (*b*) and (*c*) of this section applies to (*e*) any composition-deed,

(*f*) any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property, or

and of transfers of shares and debentures in Land Companies.

(*g*) any endorsement upon or transfer of any debenture issued by any such Company,

(*h*) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will when executed create, declare, assign, limit or extinguish any such right, title or interest,

documents merely creating right to obtain other documents.

(*i*) decrees and orders of Courts and awards,

(*j*) grants of immoveable property by Government,

(*k*) instruments of partition made by revenue officers,

(*l*) certificates and instruments of collateral security granted under the Land Improvement Act, 1871.

Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.

Authorities to adopt.

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

Documents of which registration is optional.

(*a*) Instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property:

(*b*) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest:

(*c*) Leases of immoveable property for any term not exceeding one year, and leases exempted under section 17:

(*d*) Instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property:

(*e*) Wills:

(*f*) All other documents not required by section 17 to be registered.

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

Documents in language not understood by registering officer.

20. The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

Documents containing interlineations, blanks, erasures or alterations.

21. (*a*) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

Description of parcels.

(*b*) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(*c*) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several Districts, by such number of true copies of the map or plan as are equal to the number of such Districts.

Documents containing maps or plans.

22. Failure to comply with the provisions contained in section 21, clause (*b*), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

Failure to comply with rules as to description of houses and land.

PART IV.

OF THE TIME OF PRESENTATION.

23. Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution,

Time for presenting documents.

or, in the case of a copy of a decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final:

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

24. If owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Provision where delay in presentation is unavoidable.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

25. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registering Officer, if satisfied,

Documents executed out of British India.

(*a*) that the instrument was so executed, and

(*b*) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration fee, accept such document for registration.

26. Whenever a registration-office is closed on the last day of any period provided in this Act for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

Provision where office is closed on last day of period for presentation.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

Wills may be presented or deposited at any time.

PART V.

OF THE PLACE OF REGISTRATION.

28. Save as in this Part otherwise provided, every document mentioned in section 17, clauses (*a*), (*b*), (*c*) and (*d*), and section 18, clauses (*a*), (*b*) and (*c*), shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

Place for registering documents relating to land.

29. Every document other than a document referred to in section 28 and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

Place for registering other documents.

A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose Sub-District the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

30. (*a*) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

Registration by Registrar.

(*b*.) The Registrar of a District including a Presidency Town and the Registrar of the Lahore District may receive and register any document referred to in section 28 without regard to the situation in any part of British India of the property to which the document relates.

Registration by Registrar at Presidency Town and Lahore.

31. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

Registration or acceptance for deposit at private residence.

But such officer may on special cause being shown attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

PART VI.

OF PRESENTING DOCUMENTS FOR REGISTRATION.

32. Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office,

Persons to present documents for registration.

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

33. For the purposes of section 32, the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say),—

Powers of attorney recognizable for purposes of section 32.

(*a*) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides:

(*b*) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate:

(*c*) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India:

Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (*a*) and (*b*) of this section:—

Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;

persons who are in jail under civil or criminal process; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Magistrate (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the

jail in which he is confined, and examine him, or issue a commission for his examination.

Any power-of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

Enquiry before registration by registering officer.

34. Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26:

Provided that if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration-fee in addition to the fine, if any, payable under section 24, the document may be registered.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon—

(*a*) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(*b*) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(*c*) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

Any application for a direction under the proviso in this section may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

Nothing in this section applies to copies of decrees or orders.

Procedure on admission of execution.

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

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

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in sections 58 to 61, inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

Procedure on denial of execution, &c.

If any of the persons by whom the document purports to be executed deny its execution,

or if any such person appears to be a minor, an idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document: Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII of this Act.

PART VII.

OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

Procedure where appearance of executant or witness is desired.

36. If any person presenting any document for registration, or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

Officer or Court to issue and cause service of summons.

37. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Persons exempt from appearance at registration office.

38. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office,

a person in jail under civil or criminal process,

and persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office,

shall not be required so to appear.

In every such case the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Law as to summonses, commissions, and witnesses.

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

PART VIII.

OF PRESENTING WILLS AND AUTHORITIES TO ADOPT.

Persons entitled to present wills and authorities to adopt.

40. The testator or, after his death, any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration,

and the donor or after his death the donee of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

Registration of wills and authorities to adopt.

41. A will or an authority to adopt presented for registration by the testator or donor may be registered in the same manner as any other document.

A will or authority to adopt presented for registration by any other person entitled to present it, shall be registered if the registering officer is satisfied,

(*a*) that the will or authority was executed by the testator or donor, as the case may be,

(*b*) that the testator or donor is dead, and

(*c*) that the person presenting the will or authority is, under section 40, entitled to present the same.

PART IX.

OF THE DEPOSIT OF WILLS.

Deposit of wills.

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

Procedure on deposit of wills.

43. On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register Book No. 5 the superscription aforesaid and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

The Registrar shall then place and retain the sealed cover in his fire-proof box.

Withdrawal of sealed cover deposited under section 42.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply, either personally or by duly authorized agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Proceedings on death of depositor.

45. If, on the death of a testator who has deposited a sealed cover under section 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

Re-deposit.

When such copy has been made, the Registrar shall re-deposit the original will.

Saving of Act X of 1865, section 259.

46. Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, section 259, or the power of any Court by order to compel the production of any will. But whenever any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

PART X.

OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

Time from which registered document operates.

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

Registered documents relating to property when to take effect against oral agreements.

48. All non-testamentary documents duly registered under this Act, and relating to any property whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

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

49. No document required by section 17 to be registered,

shall affect any immoveable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

Registered documents relating to land, of which registration is optional, to take effect against unregistered documents.

50. Every document of the kinds mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of section 17, and clauses (*a*) and (*b*) of section 18, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

Nothing in the former part of this section applies to leases exempted under the proviso in section 17, or to the documents mentioned in clauses (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*) and (*l*) of the same section.

Explanation.—In cases where Act No. XVI of 1864 or Act No. XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under Act No. VIII of 1871 or this Act.

PART XI.

OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

(*A*). *As to the Register Books and Indexes.*

Register-books to be kept in the several offices.

51. The following Books shall be kept in the several offices hereinafter named (that is to say)—

In all registration offices—

Book 1, "Register of non-testamentary documents relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

Book 3, "Register of wills and authorities to adopt;" and

Book 4, "Miscellaneous Register."

In the offices of Registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under sections 17, 18 and 87 which relate to immoveable property, and are not wills.

In Book 4 shall be entered all documents registered under clauses (*d*) and (*f*) of section 18, which do not relate to immoveable property.

Nothing in the former part of this section shall be deemed to require more than one set of books where the Office of the Registrar has been amalgamated with the Office of a Sub-Registrar.

52. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it: a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

Endorsements on document presented. Receipt for document. Documents admitted to registration to be copied.

And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector General.

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

Entries to be numbered consecutively.

54. In every office in which any of the books hereinbefore mentioned are kept there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

Current indexes and entries therein.

55. Four such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III, and Index No. IV.

Indexes to be made by registering officers.

Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

Index No. II shall contain such particulars mentioned in section 21 relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.

Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before) the names and additions of all persons claiming under the same.

Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under every document entered in Book No. 4.

Indexes Nos. I, II, III and IV shall contain such other particulars, and shall be prepared in such form, as the Inspector General from time to time directs.

Extra particulars in indexes.

56. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a copy of all entries made by such Sub-Registrar, during the last of such intervals, in Indexes Nos. I, II and III.

Copy of entries in Indexes Nos. I, II and III to be sent by Sub-Registrar to Registrar.

Every Registrar receiving such copy shall file it in his office.

Such copy to be filed by Registrar.

57. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and subject to the provisions of section 62, copies of entries in such books shall be given to all persons applying for such copies.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

Subject to the same provisions, copies of entries in Book No. 3 and in the index relating thereto shall be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies.

Subject to the same provisions, copies of entries in Book No. 4 and in the index relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative. The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

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

58. On every document admitted to registration, other than a copy of a decree or order, or a copy of a certificate under the Land Improvement Act, 1871, sent by the Collector to be registered, there shall be endorsed from time to time the following particulars (that is to say),—

Particulars to be endorsed on documents admitted to registration.

(*a*) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(*b*) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(*c*) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

59. The registering officer shall affix the date and his signature to all endorsements made under sections 52 and 58, relating to the same document and made in his presence on the same day.

Such endorsements to be dated and signed by registering officer.

60. After such of the provisions of sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

Certificate showing that document has been registered, and number and page of book in which it has been copied.

Such certificate shall be signed, sealed and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in section 59 have occurred as therein mentioned.

61. The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in section 21 shall be filed in Book No. 1.

Endorsements and certificate to be copied.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in section 52.

Document to be returned.

62. When a document is presented for registration under section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in section 19, shall be filed in the registration office.

Procedure on presenting document in language unknown to registering officer.

The endorsements and certificate respectively mentioned in sections 59 and 60 shall be made on the original, and for the purpose of making the copies and memoranda required by sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

63. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Power to administer oaths.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Record of substance of statements.

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(*C*). *Special Duties of Sub-Registrar.*

64. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property not wholly situate in his own Sub-District, shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

Procedure on registration of document relating to land situate in several Sub-Districts.

65. Every Sub-Registrar on registering a non-testamentary document relating to immoveable property situate in more districts than one, shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with a copy of the map or plan (if any) mentioned in section 21, to the Registrar of every district in which any part of such property is situate other than the district in which his own Sub-District is situate.

Procedure where document relates to land situate in several districts.

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

(*D*). *Special Duties of Registrar.*

66. On registering any non-testamentary document relating to immoveable property, the Registrar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose Sub-District any part of the property is situate.

Procedure on registering documents relating to land.

He shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in section 21, to every other Registrar in whose district any part of such property is situate.

Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose Sub-District any part of the property is situate.

Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

67. On any document being registered under section 30, clause (*b*), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in the first clause of section 66.

Procedure on registration under section 30, clause (*b*).

(E). Of the controlling Powers of Registrars and Inspectors General.

68. Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Sub-Registrar is situate.

Registrar to superintend and control Sub-Registrars.

Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document shall have been registered.

69. The Inspector-General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to make rules consistent with this Act—

Inspector General to superintend registration offices.

His power to make rules.

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

declaring what languages shall be deemed to be commonly used in each district;

declaring what territorial divisions shall be recognized under section 21;

regulating the amount of fines imposed under sections 24 and 34, respectively;

regulating the exercise of the discretion reposed in the registering officer by section 63;

regulating the form in which registering officers are to make memoranda of documents;

regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under section 51;

declaring the particulars to be contained in Indexes Nos. I, II, III and IV, respectively;

declaring the holidays that shall be observed in the registration offices;

and, generally, regulating the proceedings of the Registrars and Sub-Registrars.

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

70. The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under section 24 or section 34 and the amount of the proper registration fee.

His power to remit fines.

PART XII.

OF REFUSAL TO REGISTER.

71. Every Sub-Registrar refusing to register a document,

Reasons for refusal to register to be recorded.

except on the ground that the property to which it relates is not situate within his Sub-District,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

72. Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate, if presented to such Registrar within thirty days from the date of the order; and the Registrar may reverse or alter such order:

Power to reverse or alter orders of Sub-Registrar refusing registration on ground other than denial of execution.

and if the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

73. When a Sub-Registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution,

Application where Sub-Registrar refuses to register on ground of denial of execution.

any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the Registrar to whom such Sub-Registrar is subordinate in order to establish his right to have the document registered.

Such application shall be in writing and shall be accompanied by a copy of the reason recorded under section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

74. In such case, and also where such denial as aforesaid is made before a Registrar in respect of a document presented for registration to him, he shall, as soon as conveniently may be, enquire—

Procedure of Registrar on such application.

(*a*) whether the document has been executed;

(*b*) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the

document for registration as the case may be, so as to entitle the document to registration.

75. If the Registrar finds that the document has been executed and that the said requirements have been complied with, he shall order the document to be registered.

Order to register and procedure thereon.

And if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60.

Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

The Registrar may, for the purpose of any enquiry under section 74, summon and enforce the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

76. Every Registrar refusing—

Refusal by Registrar.

(*a*) to register a document except on the ground that the property to which it relates is not situate within his district or that the document ought to be registered in the office of a Sub-Registrar, or

(*b*) to direct the registration of a document under section 72 or section 75,

shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

No appeal lies from any order under this section or section 72.

77. Where the Registrar refuses to order the document to be registered, under section 72 or section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office, if it be duly presented for registration within thirty days after the passing of such decree; and the provisions contained in the second and third paragraphs of section 75, shall, *mutatis mutandis*, apply to all documents so presented, and notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

Suit in case of refusal.

PART XIII.

OF THE FEES FOR REGISTRATION, SEARCHES AND COPIES.

78. Subject to the approval of the Governor General in Council, the Local Government shall prepare a table of fees payable—

Fees to be fixed by Local Government.

for the registration of documents:

for searching the registers:

for making or granting copies of reasons, entries or documents, before, on or after registration:

And of extra or additional fees payable—

for every registration under section thirty:

for the issue of commissions:

or filing translations:

for attending at private residences:

for the safe custody and return of documents:

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

The Local Government may from time to time, subject to the like approval, alter such table.

Alteration of fees.

79. A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

Publication of fees.

80. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

Fees payable on presentation.

PART XIV.

OF PENALTIES.

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

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

82. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both:

Penalty for certain other offences.

(*a*) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act,

Making false statements before registering officer.

(*b*) intentionally delivers to a registering officer in any proceeding under section 19 or section 21 a false copy or translation of a document, or a false copy of a map or plan,

Delivering false copy or translation.

(*c*) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act,

False personation.

(*d*) abets within the meaning of the Indian Penal Code anything made punishable by this Act.

Abetment of offences under this Act.

83. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, in whose territories, District or Sub-District, as the case may be, the offence has been committed.

Registering officer may commence prosecutions.

Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Subordinate Magistrate of the first class:

Provided that, in imposing penalties under this Act, no such Court or officer shall exceed the limits of jurisdiction prescribed by the law for the time being in force as to such Court or officer.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the Presidency Towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such Towns for the time being in force.

84. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Registering officers to be deemed public servants.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in section 228 of the same Code, the words "judicial proceeding" shall include any proceeding under this Act.

A Registrar shall, but a Sub-Registrar shall not, as such, be deemed a Court within the meaning of sections 435 and 436 of the Code of Criminal Procedure.

PART XV.

MISCELLANEOUS.

85. Documents (other than wills) remaining unclaimed in any registration office, for a period exceeding two years, may be destroyed.

Destruction of unclaimed documents.

86. No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Registering officer not liable for thing *bonâ fide* done or refused in his official capacity.

87. Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Nothing so done invalidated by defect in appointment or procedure.

88. Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee, or Official Assignee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in section 58.

Registration of documents executed by Government officers or certain public functionaries.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary to Government or to such officer of Government, Administrator General, Official Trustee, Official Assignee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

89. Every officer granting a certificate under the Land Improvement Act, 1871, shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved, or of the land to be granted as collateral security, is situate, and such registering officer shall file the certificate in his book No. 1.

Certificates under Land Improvement Act, 1871.

Exemptions from Act.

90. Nothing contained in this Act or in Act No. VIII of 1871 or in any Act thereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps:—

Exemption of certain documents executed by or in favour of Government.

(*a*). Documents issued, received or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement.

(*b*). Documents and maps issued, received or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey.

(*c*). Documents which, under any law for the time being in force, or filed periodically in any revenue office by patwáris or other officers charged with the preparation of village-records.

(*d*). Sanads, inám title-deeds and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land.

But all such documents and maps shall, for the purposes of sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

91. Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in section 90, clauses (*a*), (*b*) and (*c*), and all registers of the documents mentioned in clause (*d*), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

Inspection and copies of such documents.

92. All rules relating to registration heretofore enforced in British Burma shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

Burmese registration-rules confirmed.

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

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th February 1877, and is hereby promulgated for general information:—

ACT No. IV OF 1877.

THE PRESIDENCY MAGISTRATES' ACT, 1877.

CONTENTS.

PREAMBLE.

PART I.

CHAPTER I.—PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
2. Repeal of Acts.
3. Saving of powers under local laws.
4. Matters indicated in second schedule.
5. Pending cases.
6. Definitions.

CHAPTER II.—CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.
7. Establishment of Presidency Magistrates' Courts.
8. Appointment of Presidency Magistrates.
Presidency Magistrates to be Justices of the Peace.
Local limits of their jurisdiction.
Bombay Court of Petty Sessions.
9. Appointment and powers of Chief Magistrate.
10. References in Acts to Magistrates of Police.
11. Sentences which Presidency Magistrates may pass.
12. Imprisonment in default of payment of fine.
Proviso as to cases decided by Magistrate.
13. Sentence in cases of simultaneous conviction of several offences.
14. Offences under enactments not specifying Court authorized to try.
15. Offence committed in Magistrate's presence.
16. Power to record statements and confessions.
17. Power to compel restoration of abducted females.

PART II.

CHAPTER III.—THE PLACE OF INQUIRY AND TRIAL.
18. Place for inquiry and trial of offence.
19. Accused triable in district where act done, or where consequence ensues.
20. Place for trial where act is offence by reason of relation to other offence.
21. Place for inquiry or trial where scene of offence is uncertain;
or offence not committed in one district only;
or offence is continuing;
or consists of several acts in different districts.
Offence committed on journey or voyage.
22. Being a thug, or dacoit.
Escaping from custody.
Criminal misappropriation and criminal breach of trust.
Murder as a thug, dacoity or dacoity with murder.
Stealing cattle.
23. High Court to decide, in case of doubt, district where inquiry shall take place.
24. Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

CHAPTER IV.—OF THE COGNIZANCE OF OFFENCES.
25. When Presidency Magistrate may take cognizance of offences.
26. Who may make complaints.
27. Process to compel appearance.
28. Jurisdiction given by complaint.
29. Complaint or sanction required in certain cases.
30. Magistrate to examine complainant.
31. Effect of omission to examine petitioner.
32. Dismissal of complaint.
33. Issue of process.
34. When summons may issue.
35. Where warrant or summons may issue on complaint.
36. Warrant to arrest, if summons not obeyed.
37. Magistrate may dispense with personal attendance of accused.

CHAPTER V.—OF PROSECUTIONS IN CERTAIN CASES.
38. Prosecutions for offences against the State.
39. Prosecution of Judges and public servants.
Power of Government as to prosecution.
Definitions of 'Government,' 'Judge' and 'Public servant.'
40. Prosecution for contempts of lawful authority of public servants.
41. Sanction to prosecution for certain offences against public justice.
42. Sanction to prosecution for certain offences relating to documents given in evidence.
43. Nature of sanction necessary.
44. Procedure in cases mentioned in section 40, 41 or 42.
45. Prosecution for adultery.
Prosecution for enticing away married woman.
46. Application to be deemed a complaint.

CHAPTER VI.—OF THE SUMMONS AND WARRANT.
47. Form of summons.
48. Summons how served.
49. Service when accused cannot be found.
Service on servants of Government and Railway Companies.
50. Service of summons outside Presidency Towns.
51. Proof of service in such cases and when server not present.
52. Provisions applicable to all summonses under Act.
53. Issue of warrant in addition to summons.
54. Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.
55. Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.
56. Form and direction of warrant.
Continuance of warrant.
57. Fees for summonses and warrants.
Power to remit fees.

SECTIONS.
58. When Magistrate may direct bail to be taken.
Recognizance to be forwarded.
59. Warrant to several persons.
60. Execution of warrant by Police-officer other than the one addressed.
61. Magistrate issuing warrant may superintend its execution.
62. Arrest in presence of Magistrate.
63. Where warrant may be executed.
64. Execution of warrant outside issuing Magistrate's jurisdiction.
65. Procedure on execution of warrant outside issuer's jurisdiction.
66. Magistrate and Police-officer.
67. Proclamation for person absconding.
Proclamation how published.
Evidence of publication.
68. Attachment of property of person absconding.
69. Restoration of forfeited property.

CHAPTER VII.—OF BAIL.
70. Custody of person arrested.
When bail shall be taken.
71. When bail shall not be taken.
When bail may be taken.
Warrant for intermediate custody.
72. Recognizance of accused and sureties.
73. Discharge on bail.
74. Admission to bail after failure in first instance.
75. Power to order sufficient bail when that first taken is insufficient.
76. Discharge of sureties.
77. Procedure to compel payment of penalty by accused.
78. Procedure to compel payment of penalty by sureties.
79. In what cases powers given by sections 77 and 78 may be exercised.
Remission of part of penalty.
80. Deposit instead of bail.

CHAPTER VIII.—OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.
81. Procedure in preliminary inquiries.
82. Examination of complainant and witnesses for prosecution.
83. Examination to be in presence of accused.
Procedure in inquiries preliminary to commitment.
Accused may examine, cross-examine and re-examine.
84. Examination of accused how recorded.
85. Power of Magistrate to summon and examine any person.
86. Adjournment of inquiry and remand.
87. When accused person to be discharged.
88. When accused to be committed for trial.
89. Framing of charge on which accused is to be tried before High Court.
Form of commitment.
Charge, &c., to be forwarded to High Court.
Commitment when to be notified.
90. Charge to be explained, and copy furnished, to accused.
91. List of witnesses for defence on trial before High Court.
Further list.
Power to summon supplementary witnesses.
92. Summons to witnesses when accused person is to be committed.

SECTIONS.
93. Recognizances of complainants and witnesses.
Detention in custody in case of refusal to attend or to execute recognizance.

CHAPTER IX.—OF THE CHARGE.
Form of Charges.
94. Charge to state offence.
Specific name of offence, sufficient description.
How stated where offence has no specific name.
What implied in charges.
Language of charge.
Previous conviction when to be set out.
95. Particulars as to time, place and person.
96. When manner of committing offence must be stated.
97. Forms in schedule.
98. Effect of errors.
99. Prisoner may apply for amendment.
100. Magistrate may alter charge.
101. When trial may proceed immediately after alteration.
102. When new trial may be directed or trial suspended.
Adjournment.
103. Recall of witnesses when charge altered.
104. Stay of proceedings if prosecution of offence in altered charge require previous sanction.
Joinder of Charges.
105. Separate charges for distinct offences.
106. More offences than one of same kind may be charged within a year of each other.
107. I.—Trial of more than one offence.
II.—One offence falling within two definitions.
III.—Acts severally constituting more than one offence, but collectively coming within one definition.
108. Where it is doubtful what offence has been committed.
109. When a person is charged with one offence, he can be convicted of another.
110. When offence proved included in offence charged.
111. What persons may be charged jointly.
112. Withdrawal of remaining charges, on conviction on one of several charges.
Previous Acquittals or Convictions.
113. Person once convicted or acquitted not to be tried for same offence.

CHAPTER X.—OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.
114. Cases may be tried summarily.
115. Record of evidence.
116. Charge when dispensed with.
Charge when necessary.
117. Effect on proceedings of defect in complaint or process.
118. Dismissal or adjournment on non-appearance of complainant.
119. Procedure on appearance of parties.
120. Conviction on admission of truth of complaint.
121. Procedure when no such admission is made.
122. Charge when drawn up.

SECTIONS.
123. Procedure on examining accused.
124. Adjournment.
125. Withdrawal of complaint.
126. Acquittal.
Sentence.
127. Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.
128. Trial of persons previously convicted of offences against coinage, stamp law or property.
General Provisions as to Inquiries and Trials.
129. Permission to conduct prosecution.
130. Right of accused to be defended.
131. Procedure where accused does not understand proceedings.
132. Presidency Magistrates' Courts to be open.
133. Compounding offences.

CHAPTER XI.—OF EVIDENCE.
A.—Of securing the Attendance of Witnesses.
134. Power to summon material witness or examine person present.
135. When warrant of arrest may issue in first instance.
136. Arrest of person disobeying summons.
137. Procedure when warrant cannot be served.
138. Attachment, &c., of property ordered to be attached under section 137.
139. Power to order prisoner in jail to be brought up for examination.
140. Power to order complaints, &c., to execute recognizances.
141. Committal of person refusing to answer.
B.—Of Witnesses.
142. In cases triable upon summons.
143. In cases triable upon warrant.
C.—Of securing Documentary Evidence.
144. Summons to produce document required as evidence.
145. Issue of search-warrant in first instance.
146. Procedure as to letters in custody of Postal Department or telegraph officer.
147. Power to impound document produced.
D.—Of the Examination of Accused Persons.
148. Examination of accused.
149. No influence to be used to induce disclosures.
150. Tender of pardon to accomplice.
151. Commitment of person to whom pardon has been tendered.
E.—Special Rules of Evidence.
152. Deposition of medical witness.
Power to summon medical witness.
153. Report of chemical examiner.
Genuineness of signature may be presumed.
Power to summon chemical examiner.
154. Previous conviction or acquittal how proved.
155. Record of evidence in absence of accused.
156. Convictions on evidence partly recorded by one Magistrate and partly by another.
157. When attendance of witness may be dispensed with.
158. Issue of commission and procedure thereunder.
Commission in case of witness being within Presidency town.
Complainant and accused may examine witness.
Return of commission.

F.—Of Search-warrants.
SECTIONS.
159. Search-warrant when grantable.
160. Search of house suspected to contain stolen property or forged documents.
161. Direction, &c., of search-warrants.
162. Persons in charge of closed place to allow search.
163. Place to be searched may be broken open.
164. Search of zanána.
165. Search to be made in presence of witnesses.
Occupant of place searched may attend.
166. Mode of searching women.

CHAPTER XII.—OF APPEALS.
167. Appeal by person convicted.
168. Appeal by Government from order of acquittal.
169. Copy of order to accompany petition.
170. Copies of proceedings.
171. Procedure when appellant in jail.
172. Procedure on receiving petition of appeal.
Power to reject appeal summarily.
Power to call for record.
Sentence not to be enhanced when appeal rejected under this section.
173. Notice of day for hearing appeal.
Service of notice.
174. High Court may alter or reverse finding and sentence, or enhance sentence.
175. Suspension of sentence pending appeal.
Release of appellant on bail.
176. High Court may make or direct further inquiry.
177. Order when reversible by reason of error or defect in charge or proceedings.
178. Irregularity before trial properly held.
179. Procedure in case of conviction by Magistrate not having jurisdiction.
180. Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.
181. Notice to Public Prosecutor of intention to apply under Act X of 1875, section 147.
182. Magistrate may state grounds of his decision.

CHAPTER XIII.—OF EXECUTION.
183. Court to send accused, with warrant for execution of sentence, to officer in charge of jail.
184. Form and direction of warrant of commitment.
185. Levy of fine.
Section to what cases applicable.
Detention of offender until return made to distress-warrant.
Distress not illegal nor distrainer a trespasser for defect of form in proceedings.
Who may issue distress-warrant.
186. Payment of fine in compensation.
187. Whipping, if imposed in addition to imprisonment, in appealable case, when to be inflicted.
188. Mode of inflicting punishment of whipping.
189. Punishment not to be inflicted if offender not in fit state of health.
Stay of execution.
190. Not to be executed by instalments.
191. Procedure if punishment be prevented under section 189.
192. Currency of sentence on escaped convicts.
193. Commencement of sentence on offender already sentenced for other offence.

PART III.

CHAPTER XIV.—OF LUNATICS.

SECTIONS.
194. Procedure when accused is a lunatic.
195. When accused appears to have been insane.
196. Release of lunatic on bail.
Custody when bail not given.
197. Resumption of inquiry or trial.
198. Procedure on accused appearing before Magistrate.
199. Finding in case of acquittal on ground of being lunatic.
200. Procedure when lunatic committed the act alleged.
201. Visiting of lunatic prisoners.
202. Procedure where lunatic prisoner reported capable of making defence.
203. Procedure where lunatic confined under section 199 is declared capable of being discharged.
204. Delivery of lunatic to care of relative.

CHAPTER XV.—OF CONTEMPTS OF COURT.

205. Procedure in certain cases of contempt.
206. Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.
207. Discharge of offender on submission or apology.

CHAPTER XVI.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.
208. Personal recognizance to keep the peace in cases of conviction.
209. Sureties for keeping the peace.
210. Commencement of period during which person may be bound to keep the peace.
211. Extension of time for which person is bound.

B.—Security for Good Behaviour.
212. When Magistrate may require security for good behaviour for six months.
213. When Magistrate may require security for good behaviour for one year.
214. Procedure where security required for more than one year.

C.—Provisions as to both kinds of Security.
215. Summons to person to show cause why he should not give bond to keep the peace or for good behaviour.
216. Contents of summons.
217. When warrant of arrest may issue.
218. Magistrate may dispense with personal attendance of person informed against.
219. Discharge of person informed against.
220. Order to give bond and consequence of non-compliance.
221. Proceedings to be laid before High Court.
222. Contents of order for security.
Form of recognizance.
223. Imprisonment in default of security.
Term of imprisonment.
224. Binding of sentenced person.
225. Release of prisoner under requisition of security.
Release of prisoner under requisition of security by order of High Court.
226. Discharge of sureties.
227. Commission, &c., of offence a breach.
228. Recovery of penalty from principal.
229. Recovery of penalty from surety.
230. Proof of previous conviction.
231. Where proceedings under this chapter may be taken.
232. Provisions of chapter not applying to European vagrants.

CHAPTER XVII.—OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

233. Power to restore possession of immoveable property.

CHAPTER XVIII.—OF THE MAINTENANCE OF WIVES AND FAMILIES.

234. Order for maintenance of wives and children.
Enforcement of order.
Proviso.
235. Alteration in allowance.
236. Enforcement of order.

PART IV.

CHAPTER XIX.—MISCELLANEOUS.

237. Procedure in miscellaneous criminal cases and proceedings.
238. Offences against Railway, Telegraph, Post Office and Arms' Acts.
239. Extent of jurisdiction.
240. Reference to High Court.
241. Disposal of case according to decision of High Court.
Direction as to costs.
242. Compensation to person groundlessly given in charge or complained against.
243. Order for disposal of property regarding which offence committed.
244. Power to order disposal of property connected with charge, in police-custody.
245. Expenses of complainants and witnesses.
246. All persons to give information of certain offences.
247. All persons to assist Magistrate and Police in certain cases.

THE FIRST SCHEDULE—ENACTMENTS REPEALED.
THE SECOND SCHEDULE—TABULAR STATEMENT OF OFFENCES.
THE THIRD SCHEDULE—FORMS.

An Act to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

Preamble.

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

PART I.

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Presidency Magistrates' Act, 1877":

Commencement.

And it shall come into force on the first day of April 1877.

Repeal of Acts.

2. On and from that day the Acts mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

Saving of powers under local laws.

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

Matters indicated in second schedule.

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

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any law referred to in section 14,

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

whether the offence is bailable or not,

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

The punishment for each offence under the Indian Penal Code is indicated by the sixth column of the same schedule.

Pending cases.

5. Cases pending when this Act comes into force in any of the Courts of Police Magistrates, or in the town of Bombay in the Court of Petty Sessions, shall be dealt with, as far as may be, according to the procedure herein provided.

Definitions.

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

"writing."

"writing" includes print, lithography, photography and engraving:

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

"bailable offence or case."

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

"non-bailable offence or case."

"chapter."

"chapter" means a chapter of this Act:

"place."

"place" includes also house, building and vessel: and

Words referring to acts done.

words which refer to acts done extend also to illegal omissions.

CHAPTER II.—CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

Establishment of Presidency Magistrates' Courts.

7. The Local Government may, with the sanction of the Governor General in Council,

(*a*) constitute within the towns of Calcutta, Madras and Bombay, respectively, so many divisions as the said Government thinks fit,

(*b*) define the extent thereof respectively,

(*c*) from time to time alter the number of such divisions and their respective extents, and

(*d*) establish a Presidency Magistrate's Court for each of such divisions.

Appointment of Presidency Magistrates.

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

Any such person may sit and act as a Magistrate in any of the said Courts, and any two or more of such persons may (subject to rules made under section 9) sit together as a Bench.

All persons appointed under this section shall be called Presidency Magistrates.

Presidency Magistrates to be Justices of the Peace.

Every such person shall, by virtue of his office, be a Justice of the Peace for the town of which he is a Magistrate,

Local limits of jurisdiction.

and shall exercise jurisdiction in all places within the local limits of the ordinary original criminal jurisdiction of the High Court, and within the limits of the port of such town, and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

The area comprised within such local limits shall be deemed to be a district within the meaning of the Code of Criminal Procedure and of this Act.

Bombay Court of Petty Sessions.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which, under any law in force immediately before the passing of this Act, may be exercised by the Court of Petty Sessions, and such Court is hereby abolished.

Appointment and powers of Chief Magistrate.

9. In each of the said towns the Local Government shall appoint one of the Presidency Magistrates to be Chief Magistrate. Such Magistrate shall exercise in such town all the powers which by any law or rule are required to be exercised by any Senior or Chief Magistrate, and may, with the previous sanction of the Local Government, make rules, consistent with this Act, to regulate

(*a*) the conduct and distribution of business and secure uniformity of practice in the Courts of the Magistrates of the Town:

(*b*) the times and places at which Benches of Magistrates shall sit:

(*c*) the constitution of Benches:

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session.

Notwithstanding the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

References in Acts to Magistrates of Police.

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

Sentences which Presidency Magistrates may pass.

11. Any Presidency Magistrate may pass the following sentences:—

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

Fine not exceeding one thousand rupees:

Whipping.

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

EXPLANATION.—A Presidency Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award. But no punishment inflicted under this

section shall exceed the punishment provided for the offence by the Indian Penal Code or any special or local law.

Imprisonment in default of payment of fine.

12. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Presidency Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in fixing the period of imprisonment in default of payment of the fine:

Proviso as to cases decided by Magistrate.

Provided that, in no case decided by a Presidency Magistrate, where imprisonment has been inflicted as part of the substantive sentence, shall the period of imprisonment inflicted in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Where a person is sentenced to fine only, the Presidency Magistrate may fix such term of imprisonment in default of payment of fine as is allowed by law, provided the term does not exceed two years.

Sentence in cases of simultaneous conviction of several offences.

13. When a person is convicted, at one trial, of two or more offences punishable under the same section or different sections of any law, the Presidency Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such law which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other:

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction, competent to inflict.

Offences under enactments not specifying Court authorized to try.

14. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by a Presidency Magistrate. But no such Magistrate shall pass any sentence in excess of his powers.

Offence committed in Magistrate's presence.

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

Power to record statements and confessions.

16. A Presidency Magistrate may record any confession or other statement made to him at any place within the local limits of his jurisdiction by any person with reference to any offence.

Such confessions shall be recorded in the manner provided by section 84, and such statements shall be recorded in the manner prescribed in section 115, clauses 3, 4 and 5, and such statements and confessions shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried.

No Presidency Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily; and on recording any such confession, he shall make a memorandum at the foot thereof to the following effect:—

"I believe that this confession was voluntarily made. It was read over to the person making it and was admitted by him to be correct."

(Signed) *A. B.*,
Presidency Magistrate.

Power to compel restoration of abducted females.

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

PART II.

CHAPTER III.—THE PLACE OF INQUIRY AND TRIAL.

Place for inquiry and trial of offence.

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

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

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

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

Illustrations.

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

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

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

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

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

Illustrations.

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

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

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

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

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

or offence not committed in one district only;

or offence is continuing;

or consists of several acts in different districts;

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

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

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

where an offence consists of several acts done in different districts,

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

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

or offence is committed on journey or voyage.

Being a thug or dacoit. Escaping from custody.

22. The offence of being a thug, or of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into and tried wherever the accused person happens to be when the complaint is made.

The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried either in the district in which the property which is the subject of the offence was received by the accused person, or in any other district in which the offence was committed.

Criminal misappropriation and criminal breach of trust.

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

Murder as a thug, dacoity or dacoity with murder.

The offence of stealing an animal may be inquired into and tried either in the district in which such animal was stolen, or in any other district through or into which it was conveyed.

Stealing cattle.

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

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

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

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

CHAPTER IV.—OF THE COGNIZANCE OF OFFENCES.

When Presidency Magistrate may take cognizance of offences.

25. A Presidency Magistrate may take cognizance of any offence—

(*a*) upon receiving a complaint by a private person,

(*b*) upon information or report by a Police officer,

(*c*) upon information received under section 246,

(*d*) if committed in his presence,

(*e*) upon application under chapter V.

Who may make complaints.

26. Any person acquainted with the facts of a case may make a complaint.

Process to compel appearance.

27. On receipt of a complaint a Presidency Magistrate may, if the person complained of be not already in custody, proceed by summons or warrant to compel his appearance;

and in the cases mentioned in section 25, clauses (*b*), (*c*), (*d*) and (*e*), the Presidency Magistrate may proceed as if he had received a complaint.

Jurisdiction given by complaint.

28. A complaint gives jurisdiction to a Presidency Magistrate—

(*a*) to inquire into or try (as the case may be) any offence covered by the facts complained of, or disclosed on such inquiry or trial,

(*b*) to try or commit for trial (as the case may be) any person not complained against, but who, at the time when the complaint is made, or subsequently, appears to have committed any offence so disclosed, and

(*c*) to issue process for the arrest or to compel the appearance of such person.

Complaint or sanction required in certain cases.

29. Nothing in section 27 or 28 shall be held to authorize a Presidency Magistrate to take cognizance, without complaint, of any offence falling under chapters XIX, XX or XXI of the Indian Penal Code; nor without sanction to receive a complaint, or to take cognizance without complaint of any offence, where such complaint or offence, by any law in force for the time being, may not be received or taken cognizance of without sanction.

Magistrate to examine complainant.

30. Whenever a complaint is made to a Presidency Magistrate, such Magistrate, if he has jurisdiction in the case, shall examine the complainant; and such examination may be on oath or affirmation, or not, as the Magistrate in each case thinks fit:

Provided that the Magistrate, if he thinks fit, may, before the matter of the complaint is brought before him, require it to be reduced to writing.

31. Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

Effect of omission to examine petitioner.

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

Dismissal of complaint.

The dismissal of a complaint shall not prevent subsequent proceedings against the person complained against.

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

Issue of process.

34. When a complaint is made before a Presidency Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may (subject to the provisions of section 4) issue his summons directed to such person, requiring him to appear to answer the complaint, at a certain time and place, before such Magistrate as may then be there.

When summons may issue.

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

35. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed, or is suspected of having committed—

Where warrant or summons may issue on complaint.

(*a*) any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, or

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

such Magistrate may (subject to the provisions of section 4) issue his warrant to arrest such person, or, if the thinks fit, his summons directed to such person, requiring him to appear to answer the complaint at a certain time and place before such Magistrate as may then be there.

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

Warrant to arrest, if summons not obeyed.

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

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

37. Whenever the Magistrate issues a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by his advocate, attorney or pleader.

Magistrate may dispense with personal attendance of accused.

But such Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the accused person, and, if necessary, enforce such attendance by issuing a warrant to arrest him.

CHAPTER V.—OF PROSECUTIONS IN CERTAIN CASES.

38. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, shall not be received by any Presidency Magistrate, unless it be made by order of, or under authority from, the Governor General in Council or the Local Government, or some officer empowered by the Governor General in Council or the Local Government to order or authorize such complaint, or unless it be made by the Advocate General.

Prosecutions for offences against the State.

39. A complaint of an offence of which any Judge or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be received by any Presidency Magistrate, except with the previous sanction or under the direction,

Prosecution of Judges and public servants.

(*a*) of the Government, or

(*b*) of some officer empowered in this behalf by the Government, or

(*c*) of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such complaint has not been limited by the Government.

No such Judge or public servant shall, unless with the previous sanction of the Government, be prosecuted for any act purporting to be done by him in the discharge of his duty.

The Government may, in any case or class of cases, prescribe the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial shall be held.

Power of Government as to prosecution.

In this section, the expression "Government" means either the Local Government or the Governor General in Council, and the expressions "Judge" and "public servant" have the meaning assigned to them respectively by the Indian Penal Code.

Definition of "Government," "Judge" and "public servant."

40. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179, 180 or 228 of that Code, shall not be received by any Presidency Magistrate, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

Prosecution for contempts of the lawful authority of public servants.

41. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be received by any Presidency Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences against public justice.

42. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be received against any party to or witness in such proceedings, by any Presidency Magistrate, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

43. The sanction referred to in sections 40, 41 and 42 respectively may be expressed in general terms, and need not name the accused person, and may be given at any time. But it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence is alleged to have been committed.

Nature of sanction necessary.

A sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Presidency Magistrate to alter the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

44. When any civil, criminal or other Court inferior to a High Court is of opinion that there is sufficient ground for inquiring into any complaint mentioned in section 40, 41 or 42, such Court may either itself inquire into and commit the case for trial before the High Court, or may send the case for disposal to any Presidency Magistrate having jurisdiction.

Procedure in cases mentioned in section 40, 41 or 42.

The Court may send the accused person in custody, or take sufficient bail for his appearance, before such Magistrate; and may bind over any person to appear and give evidence in the case.

Nothing in this section shall prevent a Presidency Magistrate from disposing of cases under sections 172, 173, 174 and 175 of the Indian Penal Code where he himself is the public servant concerned.

45. A complaint of an offence under section 497 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the other person (if any) under whose care she was living at the time when the adultery was committed.

Prosecution for adultery.

A complaint of an offence under section 498 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the person (if any) having the care of her on behalf of her husband at the time when the offence was committed.

Prosecution for enticing away married woman.

46. The application of the public servant or Court to a Presidency Magistrate to inquire into or try any case under this chapter shall be deemed a sufficient complaint.

Application to be deemed a complaint.

CHAPTER VI.—OF THE SUMMONS AND WARRANT.

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

Form of summons.

48. If the accused person can be found, the summons shall be served on him personally, wherever he may be, by delivering or tendering the summons to him.

Summons how served.

Every person to whom a summons is delivered or tendered under this section shall, if required by the person delivering or tendering the same, sign a receipt therefor, or countersign a copy thereof.

49. If the accused person cannot be found, the summons may be served by leaving it for him with some adult male member or servant of his family residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof. If there is no such member or servant with whom the summons can be left, the serving officer shall fix it on some conspicuous part of the house in which the accused person ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

Service when accused cannot be found.

When the person summoned is in the service of Government or of any Railway Company, the Magistrate issuing the summons may send it to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served in manner hereinbefore provided.

Service on servants of Government and Railway Companies.

50. When a summons issued by a Presidency Magistrate is to be served at any place outside the local limits of his jurisdiction, he may send the summons in duplicate to the Magistrate of the place where the accused resides or is, to be there served.

Service of summons outside Presidency Towns.

51. When a summons issued by a Presidency Magistrate is served outside such local limits as aforesaid, and also in cases where the person who has served the same is not present at the hearing of the complaint, the service may be proved—

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

(*a*) by a solemn declaration, purporting to be made before a Magistrate, that such summons has been served, and such declaration may be endorsed on the duplicate summons and returned to the Magistrate who issued the summons, or

(*b*) by a copy of the summons purporting to be countersigned by the person to whom it is addressed, or

(*c*) by a receipt under section 48.

52. The provisions relating to a summons, its issue and service, contained in sections 47 to 51 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

53. A Presidency Magistrate may, notwithstanding the issue of a summons under this chapter, either before the appearance of the accused person as required by such summons, or after he fails so to appear, issue a warrant of arrest against him.

Issue of warrant in addition to summons.

54. A Presidency Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence alleged or suspected to have been committed by such person in a different district, or on the high seas, or in a foreign country: provided that if the offence were committed within such local limits, the Magistrate might issue a summons or warrant.

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

55. On the attendance or apprehension of such person, if the Presidency Magistrate has not jurisdiction in the case, he shall either send such person to the Magistrate within the local limits of whose jurisdiction the offence is alleged to have been committed, or if the offence is bailable, take bail for his appearance before such Magistrate.

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

When the Presidency Magistrate cannot satisfy himself as to the Magistrate to whom the person so attending or arrested should be sent, he shall report the case for the orders of the High Court.

56. Every warrant issued by a Presidency Magistrate shall be in writing under his hand, shall be directed to one or more Police-officers, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form and direction of warrant.

A warrant issued under this Act remains in force until it is cancelled by the Magistrate who issued it, or until it is executed.

Continuance of warrant.

57. A fee of eight annas shall be paid for every summons or warrant issued by a Presidency Magistrate, except in the case of a summons to attend and give evidence or to produce documents, in which case there shall be paid a fee of four annas:

Fees for summonses and warrants.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the complainant is unable to pay the same, and shall remit it when the complaint is made by a public servant in the execution of his duty.

Power to remit fees.

58. A Presidency Magistrate, in issuing a warrant for the arrest of any person, may in his discretion direct by endorsement on the warrant, that if such person give sufficient bail as therein mentioned for his appearance before the Magistrate on a specified day to answer the complaint, the officer to whom the warrant is directed shall take such bail, and shall release such person from custody.

When Magistrate may direct bail to be taken.

The endorsement shall state (*a*) the number of sureties, (*b*) the amount in which they and the accused person are to be respectively bound, and (*c*) the day on which he is to appear before the Magistrate.

If bail be taken, the officer to whom the warrant is directed shall forward the recognizance to the Presidency Magistrate.

Recognizance to be forwarded.

59. When a warrant is directed to more Police-officers than one, it may be executed by all, or by any one or more, of such officer.

Warrant to several persons.

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

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

61. Any Presidency Magistrate who issues a warrant of arrest may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

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

Arrest in presence of Magistrate.

63. A warrant issued by a Presidency Magistrate shall ordinarily be executed within the local limits of his jurisdiction.

Where warrant may be executed.

But if the person against whom the warrant is issued goes into, or is in, any place outside such limits, the warrant may be executed in such place.

64. A Presidency Magistrate may direct a warrant to be executed outside the local limits of his jurisdiction, either with or without endorsement by a Magistrate within the local limits of whose jurisdiction it is to be executed.

Execution of warrant outside issuing Magistrate's jurisdiction.

Such warrant shall ordinarily be endorsed by the Magistrate within the local limits of whose jurisdiction it is to be executed.

The warrant may be forwarded to such Magistrate for endorsement, either by post or by any Police-officer to whom it is directed.

The Magistrate to whom such warrant is forwarded by post shall endorse his name thereon and cause it to be executed within the local limits of his jurisdiction.

If the warrant is forwarded by a Police-officer to whom it is directed, he may take it either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall be bound to assist such officer in executing the warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Magistrate who issued it.

65. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Presidency Magistrate who issued the warrant be within twenty miles, or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 58, be brought before the Magistrate within the local limits of whose jurisdiction the arrest was made.

Procedure on execution of warrant outside issuer's jurisdiction.

Such Magistrate shall, if the person arrested appears to be the person intended by the Presidency Magistrate, direct his removal in custody to such Magistrate, unless such person is then ready and willing to give the bail (if any) required under section 58, in which case the Magistrate before whom he is so brought shall accept such bail and forward the recognizance to the Presidency Magistrate.

66. Every Magistrate or Police-officer to whom a warrant under this Act is directed for execution shall execute the same, or cause it to be executed.

Magistrate and Police-officer.

67. If a Presidency Magistrate having jurisdiction in the case has reason to believe that any person accused of an offence not coming within section 34 is absconding or concealing himself, so that a warrant issued against him under this Act cannot be executed, such Magistrate may issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days from the date of publishing the proclamation.

Proclamation for person absconding.

Proclamation how published.

Such proclamation shall be published as follows—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides;

(*b*) it shall be affixed to some conspicuous part of his ordinary place of abode, or some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly published shall be conclusive evidence of compliance with the requirements of this section.

Evidence of publication.

68. A Presidency Magistrate may order the attachment of any property, moveable or immoveable, belonging to any person believed to be absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the local limits of the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without such local limits when endorsed by the Magistrate of the district in which such property is situate.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and, in all other cases, (*a*) by seizure under the order of the Magistrate having jurisdiction; or (*b*) by the appointment of a manager and receiver; or (*c*) by an order prohibiting the payment of rent to the absent person; or by all or any two of such processes as such Magistrate deems proper.

If the person so believed to be absconding or concealing himself does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months from the date of the attachment, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Magistrate may cause it to be sold whenever he thinks fit.

69. When any person whose property is or has been at the disposal of Government under the last paragraph of section 68 appears or is found within two years from the date of the attachment, and proves to the satisfaction of the Magistrate by whose order the property was attached that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Restoration of forfeited property.

CHAPTER VII.—OF BAIL.

70. Every person arrested under this Act shall be kept in custody until he is discharged by the order of a competent Court, or until he is admitted to bail.

Custody of person arrested.

When any person appears or is brought before a Presidency Magistrate accused of any bailable offence, such person shall be admitted to bail: Provided that, in cases punishable with fine only, or with imprisonment for a term not exceeding six months, or with both, the Magistrate may discharge him on his binding himself by a personal recognizance in such sum of money as the Magistrate thinks sufficient, to appear and attend at the time and place therein mentioned, and to continue so to attend until otherwise directed by the Magistrate.

When bail shall be taken.

71. When any person accused of any non-bailable offence appears or is brought before a Presidency Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail shall not be taken.

If the evidence given in support of the complaint is, in the opinion of the Magistrate, not such as to afford such grounds,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt,

but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

But if the Magistrate decide not to admit the accused person to bail, he shall commit him to custody by a warrant in the form (C) given in the third schedule hereto annexed, or to the like effect.

Warrant for intermediate custody.

Any Presidency Magistrate may, at any subsequent stage of any proceeding under this Act, cancel the admission under this section of any accused person to bail, and may commit him to custody, or may admit to bail any person who has been committed to custody under this section.

72. When any person accused before a Presidency Magistrate of any offence is admitted to bail, a recognizance, in such sum

Recognizance of accused and sureties.

of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue so to attend until otherwise directed by the Magistrate, and, if required, shall appear when called upon at the High Court, to answer the charge.

It is the duty of the Presidency Magistrate or other officer accepting bail to satisfy himself that every surety entering into such recognizance is a person of whom it may reasonably be presumed that he can, if necessary, satisfy its terms.

Every such recognizance shall be in the form (D) given in the third schedule hereto annexed, or to the like effect.

Discharge on bail.

73. After the recognizance has been entered into, the Presidency Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him; and in case he is in some jail, shall issue a warrant of release to the officer in charge of the jail, and such officer shall thereupon release him.

Admission to bail after failure in first instance.

74. If the accused person cannot find sufficient bail when permitted so to do, he may, if the Presidency Magistrate thinks fit, be admitted to bail upon finding the same at any time afterwards before conviction.

Power to order sufficient bail when that first taken is insufficient.

75. If, through mistake or fraud, insufficient bail have been taken, or if the bail become afterwards insufficient, the Presidency Magistrate may issue his warrant of arrest directing that the accused person be brought before him and may order such person to find sufficient bail, and on his failing so to do may commit him to prison.

Discharge of sureties.

76. The sureties for the attendance and appearance of an accused person admitted to bail may, at any time, apply to a Presidency Magistrate to discharge their recognizance.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the accused person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizance of the sureties to be discharged, and shall call upon the accused person to find other sufficient sureties, and if he fail to do so, may commit him to prison.

Procedure to compel payment of penalty by accused.

77. Whenever, by reason of default of attendance or appearance of the person bailed, a Presidency Magistrate is of opinion that proceedings should be had to recover the penalty mentioned in the recognizance into which such person has entered, he shall proceed to recover the same, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the local limits of the jurisdiction of such Magistrate.

Such warrant may be executed within such limits, and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

Procedure to compel payment of penalty by sureties.

78. Whenever, by reason of default of attendance or appearance of the person bailed, the Presidency Magistrate is of opinion that proceedings should be had to recover from the sureties the penalty mentioned in the recognizance, he shall give them notice to pay the same, or to show cause why it should not be paid.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Presidency Magistrate shall proceed to recover the penalty from such sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to them, or either of them, which may be found within the local limits of the jurisdiction of such Magistrate. Such warrant may be executed within such limits; and it shall authorize the attachment and sale of any moveable property belonging to the sureties, or either of them, without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, such sureties shall be liable to confinement, by order of the Presidency Magistrate, in the civil jail, during a period not exceeding six months.

In what cases powers given by sections 77 and 78 may be exercised.

79. The powers given by sections 77 and 78 may be exercised by every Presidency Magistrate in every case in which a recognizance has been given for the appearance of any person, if default is made by the non-appearance of such person before such Magistrate, according to the conditions of the recognizance:

Remission of part of penalty.

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in any such recognizance and enforce payment in part only.

Deposit instead of bail.

80. When any person is required by a Presidency Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as the Magistrate may fix in lieu of such bail.

CHAPTER VIII.—OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

Procedure in preliminary inquiries.

81. Cases, triable by a High Court in the exercise of its ordinary original criminal jurisdiction, or which, in the opinion of the Presidency Magistrate before whom the accused person is brought, ought to be tried by such Court, shall be inquired into by a Presidency Magistrate; and in such inquiry he shall adopt the following procedure.

Examination of complainant and witnesses for prosecution.

82. When the accused person appears or is brought before the Magistrate, or if his personal attendance is dispensed with, after reasonable notice to his advocate, attorney or pleader, the Magistrate shall, at such time as he thinks fit, take the evidence of the complainant and of such persons as are stated by the complainant to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Such evidence shall be recorded in the manner described in clauses 3, 4 and 5 of section 115.

Examination to be in presence of accused.

83. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or, when his personal attendance is dispensed with, of his advocate, attorney or pleader (if any).

Procedure in inquiries preliminary to commitment.

The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Examination of accused how recorded.

84. Whenever an accused person is examined in the course of a preliminary inquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Power of Magistrate to summon and examine any person.

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

Adjournment of inquiry and remand.

86. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to adjourn the inquiry, the Magistrate may, by a written order, from time to time adjourn the inquiry on such terms as he thinks fit and remand the accused person for a reasonable time, not exceeding fifteen days.

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

When accused person to be discharged.

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

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

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

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

When accused to be committed for trial.

88. When evidence has been given before a Presidency Magistrate, which appears to justify him in committing the accused person for trial for an offence triable exclusively by the High Court, or which, in the opinion of the Magistrate, ought to be tried by such Court, the accused person shall be committed for trial accordingly.

Framing of charge on which accused is to be tried before High Court.

89. When the Magistrate determines to commit the accused person for trial before the High Court, he shall, after the evidence has been recorded, frame a charge under his hand, declaring with what offence the accused person is charged, and (subject to the provisions of the High Courts' Criminal Procedure Act, 1875) committing him for trial by such Court on such charge.

All such charges shall be drawn up in accordance with the provisions of chapter IX.

Form of commitment.

Pending such trial, the Magistrate may commit the accused person to custody by warrant in the form (E) given in the third schedule hereto annexed, or to the like effect, or may in case of a bailable offence release him on bail; and the charge, the record of the enquiry, and any weapon or other article necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

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

Commitment when to be notified.

When the accused person is committed for trial before the High Court, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge.

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

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

List of witnesses for defence on trial before High Court.

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

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

Further list.

The Magistrate may in his discretion allow the accused person to give in any further list of witnesses at a subsequent time.

Power to summon supplementary witnesses.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial. Such examination shall, if possible, be taken in the presence of the accused person.

Nothing in this section shall be deemed to preclude the accused person from giving at any time before his trial before the High Court to the

Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Summons to witnesses when accused person is to be committed.

92. When the person accused has been committed for trial, and has given in any list of the persons referred to in section 91, the Magistrate may either summon such persons to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Recognizances of complainants and witnesses.

93. Complainants and witnesses for the prosecution and defence, whose attendance before the High Court is necessary, and who appear before the Presidency Magistrate, shall execute before him recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute recognizance.

If any complainant or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Presidency Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him in custody to the High Court.

CHAPTER IX.—OF THE CHARGE.

Form of Charges.

Charge to state offence.

94. Every charge under this Act shall state the offence with which the accused person is charged.

Specific name of offence sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused person notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge shall be written in English. If English is not understood by the accused person, the charge shall be interpreted to him in a language which he understands.

Previous conviction when to be set out.

If the accused person has been previously convicted of any offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, or of any other offence mentioned in section 3 or section 4 of Act No. VI of 1864 (*to authorize the punishment of whipping in certain cases*), and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If such statement is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception 1, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

95. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom, or the thing in respect of which, it was committed, as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

When manner of committing offence must be stated.

96. When the nature of the case is such that the particulars mentioned in sections 94 and 95 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

97. The charge may be in the form given in the third schedule to this Act or to the like effect.

Effect of errors.

98. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 96, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Prisoner may apply for amendment.

99. Any accused person may apply to a Presidency Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Magistrate shall take into account the fact that he did or did not make such an application.

Magistrate may alter charge.

100. A Presidency Magistrate may, upon the application of the accused person, or of the complainant, or upon his own motion, alter any charge at any stage of the proceedings before judgment is pronounced.

Every such alteration shall be read and explained to the accused person.

When trial may proceed immediately after alteration.

101. If the alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may in his discretion, after making such alteration, proceed with the trial as if the altered charge had been the original charge.

When new trial may be directed or trial suspended.

102. If the alteration is such that proceeding immediately with the trial is likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the altered charge; and, after hearing his defence, the Magistrate may further adjourn the trial, to admit of the appearance of any witness whose evidence the Magistrate may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

Adjournment.

Recall of witnesses when charge altered.

103. In all cases of alteration of a charge, the complainant and accused person shall be allowed to recall and examine with reference to such alteration any witness who may have been examined.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

104. If the offence stated in the altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered charge is founded.

Joinder of Charges.

Separate charges for distinct offences.

105. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

More offences than one of same kind may be charged within a year of each other.

106. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged with, and tried at the same time for, any number of them not exceeding three.

I.—Trial of more than one offence.

107. I.—If in one series of acts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II.—One offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be inflicted for any of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences which he may have committed; but he must not receive for such offences, collectively, a punishment more severe than that which might have been inflicted for any one of such offences.

Illustrations

to paragraph I—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grevious hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b*) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, convicted of, and punished for, the possession of each seal, under section 473 of the Indian Penal Code.

(*c*) A, with intent to cause injury to B, institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding. A also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 of the Indian Penal Code.

(*e*) A, knowing that B, a female minor, has been kidnapped in order that she may be subjected to grievous hurt, wrongfully confines her and detains her against her will as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(*g*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, each of the three offences under section 302 of the Indian Penal Code.

The separate charges referred to in illustrations (*a*) to (*h*) respectively may be tried at the same time.

to paragraph II—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 323 only.

(*j*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then moves the carcase in order to take it dishonestly out of B's possession without B's consent. A, may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 429 only.

(*k*) Several stolen sacks of corn are made over to A and B who know they are stolen property. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Presidency Magistrate who tries them may not inflict a severer punishment than if he had convicted them under one of those sections only.

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under one of those sections only.

to paragraph III—

(*m*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

(*n*) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 392 or 394 only.

(*o*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

108. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

109. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

When a person is charged with one offence, he can be convicted of another.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

110. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

When offence proved included in offence charged.

Illustrations.

(*a*). A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b*). A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

111. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Presidency Magistrate thinks fit, and the provisions contained in the former part of this chapter shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(*a*). A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b*). A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c*). A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

112. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the Government Solicitor or other

Withdrawal of remaining charges on conviction on one of several charges.

officer conducting the prosecution, may, with the consent of the Presidency Magistrate, withdraw, or such Magistrate of his own accord may suspend, the inquiry into, or trial of, the remaining charge or charges.

Previous Acquittals or Convictions.

113. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 108, or for which he might have been convicted under section 109.

Person once convicted or acquitted not to be tried for same offence.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 107, paragraph one.

A person acquitted or convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts, which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed: he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for an assault and convicted. The person assaulted afterwards dies. A may be tried again for culpable homicide.

(*d*) A is tried, under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life, and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e*) A is charged by a Presidency Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts, unless the case comes within paragraph three of this section.

(*f*) A is charged by a Presidency Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g*) A, B and C are charged by a Presidency Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

CHAPTER X.—OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. The following procedure shall be observed in the trial of cases by Presidency Magistrates.

Cases may be tried summarily.

In every such case the Magistrate shall record the following particulars:

(*a*) the serial number,
(*b*) the date of the commission of the offence,
(*c*) the name of the complainant,
(*d*) the name of the accused person,
(*e*) the offence complained of or proved,
(*f*) the prisoner's plea,
(*g*) the final order,
(*h*) the date of such order.

115. No Presidency Magistrate shall impose a fine exceeding two hundred rupees or imprisonment for a term exceeding six months, unless he has recorded the evidence of the witnesses.

Record of evidence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

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

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

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

116. In cases punishable with fine only, or with imprisonment for a term not exceeding six months, or with both, no formal charge need be made against the accused person; and the Magistrate may convict him of any offence punishable with fine only or with imprisonment for a term not exceeding six months, or with both, and which, from the facts proved, he appears to have committed.

Charge when dispensed with.

In cases in which the Magistrate has power to impose imprisonment for a term exceeding six months, there shall be a formal charge against the accused person.

Charge when necessary.

All charges under this section shall be drawn up by the Magistrate in accordance with the provisions of chapter IX.

117. Neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. No defect in the complaint or process shall invalidate the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

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

Dismissal or adjournment on non-appearance of complainant.

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

Procedure on appearance of parties.

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

Conviction on admission of truth of complaint.

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

Procedure when no such admission is made.

122. Whenever any charge is drawn up under this Act, it shall be drawn up as soon as the Magistrate is of opinion that a *primâ facie* case has been established against the accused person, and shall be read and explained to the accused person, and he shall be asked whether he is guilty or has any defence to make.

Charge when drawn up.

123. If the accused person be examined, the procedure prescribed in section 84 shall be followed.

Procedure on examining accused.

124. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing, on such terms as he thinks fit, to a day to be then appointed and stated in the presence of the parties.

Adjournment.

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

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

125. If a complainant, at any time before a final order is passed in any case punishable with fine only or with imprisonment for a term not exceeding six months, or with both, satisfies the said Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to do so.

Withdrawal of complaint.

The withdrawal under this section of a complaint shall operate as an acquittal of the accused person.

126. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him; and, in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, he shall add to the final order mentioned in section 114, clause (*g*), a brief statement of the reasons for the conviction.

Sentence.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate shall be pronounced in his presence, except where the sentence is for fine only, in which case it may be pronounced in the presence of the accused person's advocate, attorney or pleader.

127. If in the course of any trial before a Presidency Magistrate, it appears that the case is one which he has not jurisdiction to try, or one which, in his opinion, ought to be tried by the High Court, he shall stop further proceedings under this chapter, and shall either forward the case to the Magistrate having jurisdiction, or commit the accused person, in accordance with the provisions of chapter VIII, to the High Court for trial.

Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.

128. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Presidency Magistrate considers him an habitual offender, be committed to the High Court.

Trial of persons previously convicted of offences against coinage, stamp law or property.

General Provisions as to Inquiries and Trials.

129. A Presidency Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person other than the Advocate-General, Standing Counsel, Government Solicitor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

Permission to conduct prosecution.

Any person conducting the case may do so personally or by an advocate, attorney or pleader.

130. Every person accused before a Presidency Magistrate of an offence, may of right be defended by any advocate, attorney or pleader.

Right of accused to be defended.

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

Procedure where accused does not understand proceedings.

132. The place in which the Court of a Presidency Magistrate is held for the purpose of inquiring into or trying any offence, shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Presidency Magistrates' Courts to be open.

Provided that the Magistrate may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be, or remain in, the room or building used by the Magistrate.

133. In the case of offences which may lawfully be compounded, the injured person may compound the offence out of Court, or in Court with the permission of the Presidency Magistrate. Such composition shall have the effect of an acquittal of the accused.

Compounding offences.

CHAPTER XI.—OF EVIDENCE.

A.—Of securing the Attendance of Witnesses.

134. Any Presidency Magistrate may, at any stage of any proceeding, inquiry or trial under this Act, summon, in manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness; and the Magistrate shall summon and examine such person if his evidence appears essential to the just decision of the case.

Power to summon material witness or examine person present.

135. If a Presidency Magistrate has reason to believe that any witness, whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

When warrant of arrest may issue in first instance.

136. If any person summoned under this Act to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Presidency Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand to bring such person before him to testify as aforesaid.

Arrest of person disobeying summons.

137. If such warrant cannot be executed, and the Magistrate has reason to believe that the witness absconds or conceals himself for the purpose of preventing the execution thereof, he may issue a notice, requiring the attendance of such witness to give evidence at a time and place to be named therein, and such notice shall be affixed to some conspicuous part of such witness' ordinary place of abode, or, if he has no such abode, of the Magistrate's Court.

Procedure when warrant cannot be served.

If the witness does not attend at the time and place so named, the Magistrate may order the attachment of any moveable property belonging to such witness, equal in value, as nearly as may be, to the amount of the costs of attachment and of any fine to which the witness may be liable under the provisions of section 172 of the Indian Penal Code.

138. The provisions of section 68 and section 69 as to the attachment, sale and restoration of moveable property shall apply to all property ordered to be attached under section 137.

Attachment, &c., of property ordered to be attached under section 137.

139. Notwithstanding anything contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

Power to order prisoner in jail to be brought up for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

140. The Presidency Magistrate may require complainants and witnesses for the prosecution and defence whose attendance before him is necessary, to execute recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon to prosecute or give evidence, as the case may be.

Power to require complainants, &c., to execute recognizances.

141. If any witness summoned or brought before a Presidency Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 205 or 206.

Committal of person refusing to answer.

B.—Of Witnesses.

142. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, it shall ordinarily be the duty of the complainant and accused to produce their own witnesses. But the Presidency Magistrate may in his discretion—

In cases triable upon summons.

(*a*) summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused;

(*b*) summon any witness named by the complainant or the accused:

Provided that the Magistrate may, before summoning a witness, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

143. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before him such of them as he thinks necessary.

In cases triable upon warrant.

The Magistrate shall also summon any witness, and take any evidence that may be offered, in behalf of the accused person, to answer or disprove the evidence against him.

C.—Of Securing Documentary Evidence.

144. Whenever a Presidency Magistrate considers that the production of any document or other thing is necessary or desirable for the purposes of any inquiry, trial, or other proceeding under this Act, he may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it at the time and place stated in the summons.

Summons to produce document required as evidence.

145. Where there is reason to believe that the person to whom the summons is addressed will not produce the document or

Issue of search warrant in first instance.

other thing as directed in the summons, the Magistrate may issue a warrant to search for such document or thing in the first instance.

Procedure as to letters in custody of Postal Department or telegraph officer.

146. If any letter in the custody of the Postal Department is wanted for the purpose of any inquiry or trial by a Presidency Magistrate, the Magistrate may, if he is the Chief Magistrate, direct the postal authorities to deliver such letter to such person as the Magistrate directs, and if he is not the Chief Magistrate, may apply to the Chief Magistrate, who may, if he thinks fit, give such direction.

The letter referred to in any direction given under this section shall be delivered accordingly.

Power to impound document produced.

147. Any Presidency Magistrate may, if he thinks fit, impound any document or other thing produced before him, or may, at the conclusion of the proceedings, order it to be returned to the person who produced it.

D.—Of the Examination of Accused Persons.

Examination of accused.

148. At any stage of any inquiry or trial under this Act, the Magistrate may, without previously warning the accused person, put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not only in such inquiry or trial, but also in any other inquiry into, or trial for, any other offence which such answer may tend to show he has committed.

No influence to be used to induce disclosures.

149. Except as is provided in section 150, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Tender of pardon to accomplice.

150. A Presidency Magistrate may, with the view of obtaining the evidence of any persons supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances, within his knowledge, relative to such offence and to every other person concerned in the perpetration thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial.

Commitment of person to whom pardon has been tendered.

151. When a pardon has been tendered under section 150, if before the trial it appears to the Presidency Magistrate that any person who has accepted such tender has either by wilfully concealing anything essential, or by giving false evidence, not complied with the conditions under which the tender was made, such Magistrate may commit him for trial for the offence in respect of which the pardon was so tendered, or for any other offence of which he may appear to have been guilty in connection with the same matter.

The statement made by a person under pardon which pardon has been withdrawn under this section, may be put in evidence against him.

E.—Special Rules of Evidence.

Deposition of medical witness.

152. The deposition of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any inquiry or trial under this Act, although the deponent is not called as a witness.

Power to summon medical witness.

The Presidency Magistrate may, if he thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Report of Chemical Examiner.

153. Any document purporting to be a report from the Chemical Examiner, or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any inquiry or trial under this Act, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any inquiry or trial under this Act.

Genuineness of signature may be presumed.

The Presidency Magistrate may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Power to summon Chemical Examiner.

The Presidency Magistrate may, if he thinks fit, summon and examine such Chemical Examiner or Assistant Chemical Examiner as to the subject-matter of his said report.

Previous conviction or acquittal how proved.

154. A previous conviction or acquittal may be proved (*a*) by an extract certified, under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the sentence or order, or (*b*), in case of a conviction either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted or by production of the warrant of commitment under which the punishment was suffered.

Record of evidence in absence of accused.

155. If an accused person abscond, and after due pursuit cannot be arrested, the Presidency Magistrate may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions; and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged, if the attendance of the deponent cannot be procured.

Convictions on evidence partly recorded by one Magistrate and partly by another.

156. Whenever any Presidency Magistrate, after having heard the whole or any part of the evidence in an inquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and re-commence the inquiry or trial:

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses be re-summoned and reheard, in which case the inquiry or trial shall be re-commenced:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new inquiry or trial.

When attendance of witness may be dispensed with.

157. Whenever in the course of a trial or inquiry under this Act it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Presidency Magistrate may dispense with such attendance.

Issue of commission and procedure thereunder.

158. Such Magistrate may direct a commission to any Magistrate of the District, or Magistrate of the first class, within the local limits of whose jurisdiction such witness may be.

The Magistrate to whom the commission is directed, or, if he be the Magistrate of the District, such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where such witness is, or shall summon such witness before himself, and shall take his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure.

Commission in case of witness being within Presidency town.

If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, other than the Magistrate dispensing with his attendance, the latter Magistrate may direct a commission to the former Magistrate, who thereupon shall have the like power to compel the attendance of, and to examine, such witness as he possesses for that purpose in cases pending before himself.

Complainant and accused may examine witness.

The complainant and the accused person may respectively forward interrogatories, in writing, upon which the Magistrate to whom the commission is directed shall examine the witness,

or the complainant and the accused person (if on bail) may appear before such Magistrate,

or the complainant and the accused person may so appear respectively by advocate, attorney or pleader,

and may examine, cross-examine and re-examine (as the case may be) the said witness.

Return of commission.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Magistrate by whom it was issued; and the commission, the return thereto, and the deposition of such witness, may be used as evidence in the case and shall form part of the record.

F.—Of Search-Warrants.

Search-warrant when grantable.

159. When a Presidency Magistrate considers that the production of any thing is essential to the conduct of an inquiry into an offence known or suspected to have been committed or to the discovery of the offender,

or when he considers that such inquiry or discovery will be furthered by a general search or inspection,

he may grant his search-warrant; and the officer charged with the execution of such warant may search or inspect any place within the local limits of the jurisdiction of such Magistrate.

The Magistrate may, if he thinks fit, specify in the warrant the particular place, building or part thereof to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place, building or part so specified.

Nothing in this section or in section 145 shall authorize a Magistrate to grant a warrant to search for a letter or telegram in the custody of the Postal Department or of a telegraph officer.

Search of house suspected to contain stolen property or forged documents.

160. If a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin, or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, and by force if necessary, such place, and

(*b*) to search the same as specified in the warrant, and

(*c*) to take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, stamps, seals, coins, instruments or materials before a Presidency Magistrate, or to guard the same on the spot until the offender is taken before a Presidency Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

Direction, &c., of search-warrants.

161. The provisions of sections 59, 60 and 61 shall apply to all search-warrants issued under this chapter.

162. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search.

163. A Police-officer or other person, authorized by a warrant to search any place, may break open any outer or inner door or window of such place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Place to be searched may be broken open.

164. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall, unless a warrant of arrest has been issued against her, give her notice that she is at liberty to withdraw.

Search of zanána.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of making the search, using at the same time every precaution consistent with this section for preventing the clandestine removal of the thing mentioned in the warrant.

165. Before making a search under this chapter the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

Search to be made in presence of witnesses.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless especially summoned by him.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

Occupant of place searched may attend.

166. Whenever it is necessary to cause a woman to be searched, the search shall be made with strict regard to the customs of the country.

Mode of searching women.

CHAPTER XII.—OF APPEALS.

167. Any person convicted on a trial held by a Presidency Magistrate, may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months, or to fine exceeding two hundred rupees:

Appeal by person convicted.

Provided that, where an accused person has been convicted on his own plea, no such appeal shall lie except as to the extent or legality of the sentence.

Sentences passed under section 13 on the same occasion shall, for the purposes of this section, be considered as one sentence.

For the purposes of the Indian Limitation Act, 1871, all appeals under this section and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

168. The Local Government may direct the Public Prosecutor or other officer specially or generally appointed in this behalf to present an appeal to the High Court from a Presidency Magistrate's order of acquittal or of dismissal, or of discharge; but in no other case shall there be an appeal by the prosecution from any order under this Act.

Appeal by Government from order of acquittal.

No appeal shall be presented under this section after two months from the date of the order complained of.

When an appeal is presented under this section, the High Court may order the accused person to be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or (if the offence of which he is accused be bailable) admit him to bail.

The High Court may, in any case so appealed, direct a new trial by any Presidency Magistrate, or may pass such order as may be warranted by law.

169. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copy of order to accompany petition.

170. If any person affected by an order passed under this Act desires to have a copy of such order or of any deposition or other part of the record, he shall, on applying for such copy, be furnished therewith; provided that he pay for the same, unless the Magistrate, for some special reason, thinks fit to furnish it free of cost.

Copies of proceedings.

171. If the appellant be in jail, he shall be at liberty to present his petition of appeal, and the copy of the order appealed against, to the officer in charge of the jail, who shall thereupon forward such petition and copy to the High Court.

Procedure when appellant in jail.

172. On receiving the petition of appeal and the copy of the order appealed against, the High Court shall peruse the same, and may fix a reasonable time for hearing the appellant or his advocate or pleader, or if he be present may hear him at once.

Procedure on receiving petition of appeal.

The High Court may, if it considers that there is no sufficient ground for altering or revising the order appealed against, reject the appeal summarily.

Power to reject appeal summarily.

Before rejecting an appeal under this section, the High Court may call for the record of the case, but shall not be bound to do so.

Power to call for record.

In rejecting under this section an appeal by a person convicted, the High Court shall not enhance the sentence.

Sentence not to be enhanced when appeal rejected under this section.

173. If the High Court does not reject the appeal summarily, it shall cause notice to be given to the appellant and the Public Prosecutor, Government Solicitor, or other officer

Notice of day for hearing appeal.

empowered by Government in that behalf, of the day on which such appeal will be heard,

and in case of appeals under section 168, the High Court shall also cause a like notice to be given to the respondent.

All such notices shall be served in manner provided by this Act for serving a summons unless in the case of persons present in Court, to whom they may be given orally.

Service of notice.

174. The High Court shall send for the record of the case, and after perusing the same, and hearing the appellant or his advocate or pleader, if he appears, and the Government Solicitor or other officer empowered by Government in this behalf, if he appears, may—

High Court may alter or reverse finding and sentence, or enhance sentence.

(*a*) alter or reverse the order of such Court, or

(*b*) enhance any punishment which has been awarded, but not so as to inflict a greater punishment for the offence which, in the opinion of the High Court, he has committed, than the Presidency Magistrate could have inflicted for such offence, or

(*c*) order the appellant to be re-tried before any Presidency Magistrate or before the High Court, or

(*d*) if it considers that there is no sufficient ground for interfering with the sentence or order appealed against, reject the appeal.

175. Pending any appeal under section 167, the High Court may direct that the execution of the order appealed against be suspended, and, if the appellant be in confinement for a bailable offence, may order that he be released on bail.

Suspension of sentence pending appeal.

Release of appellant on bail.

Where the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in calculating the term of his imprisonment.

176. In dealing with any appeal under this chapter, the High Court, if it thinks additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may either take such evidence itself, or may direct it to be taken by a Presidency Magistrate.

High Court may make or direct further inquiry.

When the additional evidence is taken by the Presidency Magistrate, he shall certify such evidence to the High Court, and the High Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the accused person or his advocate, attorney or pleader, shall be present when the additional evidence is taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined before a Magistrate under this section.

177. No order passed by a Presidency Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the accused person in his defence.

Order when reversible by reason of error or defect in charge or proceedings.

178. No irregularity in the proceedings prior to the commencement of the trial is a sufficient ground for reversing or altering any order passed in a trial properly held.

Irregularity before trial properly held.

179. When a Presidency Magistrate has passed an order inflicting punishment on any person for an offence not triable by such Magistrate, the High Court shall cancel the order, and either try the case itself or direct it to be tried by a Court of competent jurisdiction.

Procedure in case of conviction by Magistrate not having jurisdiction.

180. No appeal shall lie from any order of a Presidency Magistrate, except in the cases provided for by this Act or by any other law for the time being in force

Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation, in case of a groundless complaint.

(*b.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*c.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*d.*) There is no appeal against an order of maintenance.

181. Whenever an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the applicant shall give to the Public Prosecutor, Government Solicitor, or such other officer as the Local Government appoints in this behalf, notice in writing of the application, together with a copy of the grounds on which it is to be made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Notice to Public Prosecutor of intention to apply under Act X of 1875, s. 147.

182. When the decision of any Presidency Magistrate is called in question in the High Court, the Magistrate may submit with the record of the case a statement setting forth the grounds of his decision and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

CHAPTER XIII.—OF EXECUTION.

183. In cases tried by a Presidency Magistrate, the Magistrate passing any order inflicting imprisonment or whipping shall forward the accused person with a warrant for the execution of the sentence to the officer in charge of the jail of the Presidency town in which the trial was held,

Court to send accused with warrant for execution of sentence to officer in charge of jail.

or where there are more such jails than one, to the officer in charge of such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, the nature of the punishment to which he has been sentenced, and if he has been sentenced to imprisonment, the term for which he is to be imprisoned.

184. Every such warrant shall be in writing under the hand of the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (G) given in the third schedule to this Act or to the like effect.

Form and direction of warrant of commitment.

185. Whenever a Presidency Magistrate imposes a fine under this or any other Act for the time being in force, he may issue a warrant for the levy of the amount of the fine by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Levy of fine.

Such warrant may be executed within the local limits of such Magistrate's jurisdiction, and it shall authorize the distress and sale of any such property without such limits when endorsed by the Magistrate of the District in which it is found.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Section to what cases applicable.

When a warrant is issued under this section, the Presidency Magistrate may order the offender to be imprisoned until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, as the Magistrate thinks fit, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance. But if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the local limits of his jurisdiction whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant.

Detention of offender until return made to distress-warrant.

No distress made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto.

Distress not illegal, nor distrainer a trespasser, for defect of form in proceedings.

The said warrant may be issued either by the Magistrate who imposes the fine, or by his successor in office.

Who may issue distress-warrant.

186. Whenever a Presidency Magistrate imposes a fine under any law in force for the time being, he may order the whole or any part of the fine to be paid in compensation—

Payment of fine in compensation.

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the injury complained of, where such injury can, in the opinion of such Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be imposed in a case which is subject to appeal, no such payment shall be made until the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, until after the decision of the appeal.

At the time of awarding damages in any subsequent civil suit relating to the same matter, the Court shall take into consideration any sum which may have been paid under this section.

187. When the punishment of whipping is imposed, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Whipping, if imposed in addition to imprisonment in appealable case, when to be inflicted.

188. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

Mode of inflicting punishment of whipping.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall such punishment exceed thirty stripes.

The punishment of whipping shall be inflicted in the presence of the officer in charge of the jail: provided that, in the case of a person under sixteen years of age, the Magistrate may order it to be inflicted in his own presence.

189. The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer or Magistrate present, that the offender is in a fit state of health to undergo such punishment.

Punishment not to be inflicted if offender not in fit state of health.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer or Magistrate present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Stay of execution.

190. No sentence of whipping shall be executed by instalments.

Not to be executed by instalments.

191. In any case in which, under section 189, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his descretion, either remit such sentence, or sentence the offender, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to

Procedure if punishment be prevented under section 189.

imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to inflict.

192. When sentence is passed under this Act on an escaped convict, such sentence, if of fine or whipping, shall take effect immediately, and, if of imprisonment, shall take effect after he has undergone the portion of his former sentence which remained unexpired at the time of his escape.

Currency of sentence on escaped convicts.

193. When a person already under sentence of imprisonment or transportation is sentenced under this Act to imprisonment, such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced.

Commencement of sentence on offender already sentenced for other offence.

PART III.

CHAPTER XIV.—OF LUNATICS.

194. When any person accused before a Presidency Magistrate of an offence appears to such Magistrate to be of unsound mind and incapable of making his defence, the Magistrate shall enquire into the fact of such unsoundness, and shall cause the accused person to be examined by such medical officer as the Local Government directs, and thereupon shall examine such officer as a witness, and shall reduce the examination into writing.

Procedure when accused is a lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

195. When, from the evidence given before a Presidency Magistrate, there appears to be sufficient ground for believing that an accused person committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of such act or that he was doing what was contrary to law, the Presidency Magistrate shall, if such accused person appears to be of sound mind at the time of the inquiry or trial, proceed with the case.

When accused appears to have been insane.

196. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Presidency Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient bail being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or such officer as the Magistrate appoints in this behalf.

Release of lunatic on bail.

If the offence be non-bailable, or if sufficient bail be not given, the Magistrate shall report the case for the order of the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

Custody when bail not given.

197. Whenever proceedings are stayed under section 194, the Presidency Magistrate may at any time resume the inquiry or trial, and require the accused person to appear or to be brought before him.

Resumption of inquiry or trial.

When the accused person has been released under section 196, and the sureties for his appearance produce him to the officer whom the Magistrate appoints in this behalf, the certificate of such officer that the accused person is capable of making his defence shall be receivable as evidence.

198. If, when the accused person appears or is again brought before the Magistrate, such Magistrate considers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate.

If the Magistrate considers the accused person to be still incapable of making his defence, the Magistrate shall again act according to section 194.

199. Whenever any person is acquitted by a Presidency Magistrate upon the ground that, at the time at which such person is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence complained of, or that he was doing what was contrary to law, the order of acquittal shall state specially whether he committed the act or not.

Finding in case of acquittal on ground of being lunatic.

200. Whenever such order states that the accused person committed the act alleged, the Presidency Magistrate before whom the trial was held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody, in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Procedure when lunatic committed the act alleged.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

201. When any person is confined under the provisions of section 196 or 200, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

202. If such person is confined under section 196, and such Inspector General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Presidency Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 198; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

203. If such person is confined under the provisions of section 200, and such Inspector General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 200 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as it thinks fit.

204. Whenever any relative or friend of any person detained under the provisions of section 200 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person so detained shall be properly taken care of and shall be prevented from doing injury to himself or another, may order such person to be delivered to such relative or friend.

Delivery of lunatic to care of relative.

Whenever such person is so delivered over, it shall be upon condition that he shall be produced for the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 201 and 203 shall, *mutatis mutandis*, apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XV.—OF CONTEMPTS OF COURT.

205. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of a Presidency Magistrate, he may cause the offender to be detained in custody; and, at any time before the Magistrate leaves his Court on the same day, he may take cognizance of the offence, and sentence the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

In every such case, the Magistrate shall record the acts constituting the offence, with the statement (if any) made by the offender as well as the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Magistrate interrupted or insulted was sitting, and the nature of the insult or interruption.

206. If the Presidency Magistrate considers that a person accused of any of the offences referred to in section 205 should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate, after recording the facts constituting the offence and the statement of the accused person shall forward the case to another Presidency Magistrate, and shall require bail to be given for the appearance of such accused person before such other Magistrate, or, if sufficient bail be not given, shall forward such person under custody to such Magistrate.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Presidency Magistrate; and may sentence the offender to punishment, as provided in the section under which he is charged.

207. When any Presidency Magistrate has sentenced an offender to punishment, or forwarded him to another Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

Discharge of offender on submission or apology.

CHAPTER XVI.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.

208. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Presidency Magistrate,

Personal recognizance to keep the peace in cases of conviction.

and such Magistrate is of opinion that it is necessary to require such person to execute a personal recognizance for keeping the peace,

he may, in addition to any other order passed in the case, order the person so convicted to execute a personal recognizance for keeping the peace during such period as the Magistrate thinks fit to fix, not exceeding one year.

209. Whenever a Presidency Magistrate is of opinion that it is necessary to require sureties for keeping the peace, in addition to the personal recognizance of the person so convicted, such Magistrate may require him to give such sureties, and may fix the penalties which the sureties shall be respectively bound to discharge, and may direct that, if such bail be not given, he shall be imprisoned for such term not exceeding one year as the Magistrate thinks fit.

Sureties for keeping the peace.

210. If the person so convicted be sentenced to imprisonment, the period so fixed, and the term of imprisonment in default of executing the recognizance, shall commence on the expiration of his sentence.

Commencement of period during which person may be bound to keep peace.

Where the order to execute such recognizance is not made at the time of signing, or by the Magistrate who signs the judgment, the person so convicted must be produced before the Magistrate making such order.

211. Whenever it appears to a Presidency Magistrate that it is necessary for the preservation of the peace that the term for

Extension of time for which person is bound.

which any person is so bound should be extended, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend such term for a further period not exceeding one year from the expiration of the first year.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 215.

B.—Security for Good Behaviour.

212. Whenever it is proved before a Presidency Magistrate that any person is lurking within the local limits of his jurisdiction, or that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such person to enter into such recognizance, with sureties, for his good behaviour for a period not exceeding six months, as the Magistrate thinks sufficient.

When Magistrate may require security for good behaviour for six months.

213. Whenever it is proved before a Presidency Magistrate that any person is by repute

When Magistrate may require security for good behaviour for one year.

a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood,

or of a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

214. Whenever it is proved before a Presidency Magistrate that any person is an habitual robber, house-breaker or thief,

Procedure where security required for more than one year.

or an habitual receiver of stolen property, knowing the same to have been stolen,

or of a dangerous character,

and that his release without security, at the expiration of the limited period of one year, would be hazardous to the community,

the Magistrate shall record his opinion to that effect, and make an order requiring similar security for the good behaviour of such person for a period not exceeding three years.

If such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

C.—Provisions as to both Kinds of Security.

215. Whenever a Presidency Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, or that he is one of the persons referred to in sections 212, 213 and 214, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to execute a recognizance to keep the peace or for good behaviour, as the case may be.

Summons to person to show cause why he should not give bond to keep peace or for good behaviour.

EXPLANATION I.—A summons calling on a person to show cause why he should not execute such recognizance, may be issued on any report or other information which the Magistrate believes; but the Magistrate shall not require any person to execute such recognizance until the Magistrate has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may, if he thinks fit, recall any summons issued under this section.

216. Such summons shall set forth the substance of the report or information on which it is issued, the penalty to be specified in the recognizance, and the term for which it is to be in force, and, if bail are to be taken, their number, the penalties which they shall be respectively bound to discharge, and the time and place at which the person summoned is required to attend.

Contents of summons.

When the person believed to be likely to commit a breach of the peace or to be one of the persons referred to in sections 212, 213 and 214, is present in Court, no summons is necessary, but the Magistrate may at once require him to show cause why he should not be required to execute the recognizance.

217. If the person summoned does not attend on the day appointed at the hour and place named in the summons, the Presidency Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

When warrant of arrest may issue.

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded by the Magistrate on the warrant), that there is reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, or that there is reason to think that any person is one of the persons so referred to, the Magistrate may at any time issue a warrant for his arrest.

218. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 215, and may permit him to appear and execute the required recognizance, or show cause against such requisition, by an advocate, attorney or pleader.

Magistrate may dispense with personal attendance of person informed against.

219. If on the appearance of the person so informed against or, if his attendance is dispensed with, of his advocate, attorney or pleader, the Magistrate is not satisfied that there is occasion to bind over such person to keep the peace, or to be of good behaviour, the Magistrate shall direct his discharge.

Discharge of person informed against.

220. If the Magistrate is satisfied that it is necessary for the preservation of the peace or the maintenance of good behaviour that such person shall execute a recognizance, the Magistrate shall make an order accordingly.

Order to give bond and consequence of non-compliance.

The penalty specified in every recognizance executed under this chapter shall be fixed with due regard to the circumstances of the case and the means of the person bound.

The penalty which the sureties shall be jointly and severally bound to discharge shall not exceed the penalty which the principal debtor is bound to discharge.

221. If a person required to furnish security under section 214 does not furnish the same, or offers sureties whom the Magistrate rejects, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Proceedings to be laid before High Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass such orders on the case as it thinks fit, provided that the period (if any) for which it may direct the security to be taken shall not exceed three years.

222. Whenever security is required under this chapter, the amount of the security, the number and description of sureties, and the period of time for which the recognizance is to remain in force, shall be stated in the order, and the recognizance shall be in the form (H) or (I), as the case may be, given in the third schedule hereto annexed or to the like effect.

Contents of order for security.

Form of recognizance.

223. In the event of any person required to give security under the provisions of this chapter failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Imprisonment in default of security.

Term of imprisonment.

Imprisonment under this section may be rigorous or simple, as the High Court or Magistrate in each case directs.

224. If any person required under this chapter to enter into a recognizance is under sentence of imprisonment, he shall, on or after the expiration of his sentence, be brought up before the Magistrate for the purpose of entering into such recognizance.

Binding of sentenced person.

225. A Presidency Magistrate may at any time release any person imprisoned for failing to furnish security for good behaviour, whether by his own order or that of his predecessor in office, provided that the Magistrate is of opinion that such person may be released without hazard to the community.

Release of prisoners under requisition of security.

Whenever a Presidency Magistrate is of opinion that any person imprisoned for failing to furnish security for good behaviour, as ordered by the High Court, may be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Release of prisoner under requisition of security by order of High Court.

226. A surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate to discharge his recognizance.

Discharge of sureties

On such application being made, the Magistrate shall issue his summons or warrant requiring the person for whom such surety is bound to appear or be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall discharge the recognizance of the surety, and shall order such person to give a fresh surety.

227. The commission, or attempt to commit, or the abetment of, any offence whatever, and wherever it may be committed, is a breach of the recognizance.

Commission, &c., of offence, a breach.

228. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter has been forfeited, he shall record the grounds of such proof, and call upon the person bound by such recognizance to pay the penalty thereof, or to show cause why it should not be paid.

Recovery of penalty from principal.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any moveable property belonging to the person bound by such recognizance.

Such warrant may be executed within the local limits of the jurisdiction of the Magistrate who issued it; and it shall authorize the distress and sale of any moveable property belonging to the person so bound without such limits, when endorsed by the Magistrate of the District in which such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable to imprisonment by order of the Presidency Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person so bound has had an opportunity of showing cause against the enforcement, and until the breach of the condition of the recognizance has been proved.

229. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter by a surety has been forfeited, the Magistrate may give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

Recovery of penalty from surety.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover the penalty from such surety in manner provided by the last preceding section.

And in case such penalty cannot be so recovered, the Magistrate may sentence the surety to imprisonment in the civil jail for a period not exceeding six months.

230. Any previous conviction of the person to be bound may, in proceedings under this chapter, be proved in the manner prescribed in section 154.

Proof of previous conviction.

231. Proceedings under this chapter may be taken in any district in which the breach of the peace is apprehended, or in which an offence has been committed in breach of the bond, or in which the person whom it is desired to bind may be.

Where proceedings under this chapter may be taken.

232. The provisions of this chapter relating to security for good behaviour do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

Provisions of chapter not applying to European vagrants.

CHAPTER XVII.—OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

233. Whenever any person is convicted by a Presidency Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

Power to restore possession of immoveable property.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XVIII.—OF THE MAINTENANCE OF WIVES AND FAMILIES.

234. If any person, having sufficient means, neglects or refuses to maintain his wife, or his legitimate or illegitimate child unable to maintain itself, a Presidency Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his said wife, or child, or both, at such monthly rate not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Order for maintenance of wives and children.

Such allowance shall be payable from the date of the order.

If any person so ordered wilfully neglects to comply with the order, a Presidency Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines; and may sentence such person, for each month's allowance remaining unpaid, to imprisonment for any term not exceeding one month:

Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

Proviso.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

235. On the application of any person receiving, or ordered to pay, a monthly allowance under the provisions of section 234, and on proof of a change in the circumstances of such person, his wife or child, the Magistrate may make such alteration in the allowance ordered as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

Alteration in allowance.

236. A copy of the order of maintenance shall be given without fee to the person in whose favour it is made, or to his guardian (if any); and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

Enforcement of order.

PART IV.

CHAPTER XIX.—MISCELLANEOUS.

237. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Presidency Magistrate's Court.

Procedure in miscellaneous criminal cases and proceedings.

238. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by a Presidency Magistrate, and may be tried according to the provisions of this Act.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

239. The powers conferred on a Presidency Magistrate by section 238 may be exercised whether the offence is stated to have been committed within the local limits of his jurisdiction or not; but such powers shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within such limits.

Extent of jurisdiction.

240. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to jail or release him on bail to appear for judgment when called upon.

Reference to High Court.

241. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said order.

Disposal of case according to decision of High Court.

The High Court may direct by whom the costs of the reference shall be paid.

Direction as to costs.

242. Whenever any person causes a Police-officer to arrest another person, and whenever a complaint of any offence is made before any Presidency Magistrate, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest or for making such complaint, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest or making the complaint, to the person so arrested or complained against, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

Compensation to person groundlessly given in charge or complained against.

In such cases, if more persons than one are arrested or complained against, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine.

243. When the inquiry or trial before any Presidency Magistrate is concluded, he may make such order as he thinks fit for the disposal of any moveable property produced before him regarding which any offence appears to have been committed.

Order for disposal of property regarding which offence committed.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

244. If any property alleged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Presidency Magistrate, or in prosecution of any complaint of an offence in regard to the obtaining thereof, and the person accused of such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted,

Power to order disposal of property connected with charge, in Police-custody.

or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty,

or if any property has been seized by a Police-officer under section 160,

any Presidency Magistrate may make an order for the delivery of such property to the person appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, may make such order with respect to the property as the Magistrate thinks fit:

Provided that no such order shall bar the right of any person to sue the person to whom the property is delivered, and to recover such property from him, so that the suit be instituted within six months next after such order has been made.

245. Subject to any rules that may be made by the Local Government, with the previous sanction of the Governor General in Council, a Presidency Magistrate may order

Expenses of complainants and witnesses.

payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

All persons to give information of certain offences.

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

All persons to assist Magistrate and Police in certain cases.

247. Within such local limits every person is bound to assist a Presidency Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

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

SCHEDULE I.

ACTS REPEALED.

(SEE SECTION 2.)

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and." Sections twenty-two, twenty-three, twenty-six to thirty-one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-five to ninety-eight (both inclusive), one-hundred to one-hundred-and-four (both inclusive), one-hundred-and-six, one-hundred-and-eight to one-hundred-and-eleven (both inclusive). In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath." In section ninety-three, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten, twelve to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive). In section fifty-eight, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive). In section seventy-nine, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

EXPLANATORY NOTES.—*1st.*—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 70 and 71 of this Act.

3rd.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4th.—The last part of the schedule, headed "Offences against other Laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

5th.—The direction in column 4 is meant to indicate to Presidency Magistrates the manner in which the discretion vested in them by sections 34 and 35 is commonly to be used.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto	Ditto

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto -	Ditto -	Ditto -	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto -	Ditto -	Ditto -	Ditto - - - -	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto -	Ditto -	Ditto -	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto -	Ditto -	Ditto -	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed - - -	Ditto -	Ditto -	Ditto -	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant	Not bailable	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto	Ditto	Ditto	Transportation of life or any shorter term, or imprisonment of either description for ten years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection	Ditto	Ditto	Ditto	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto	Ditto	Ditto	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto	Ditto	Bailable	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the re-capture of such prisoner.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor, who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto.
148	Rioting armed with a deadly weapon	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto	Ditto	Fine of 1,000 rupees	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Or to go armed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for one month, or fine of 100 rupees, or both.	Ditto.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade -	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant - -	May arrest without warrant.	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto -	Ditto -	Ditto -	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto -	Ditto -	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto -	Ditto -	Ditto -	Death, or as above -	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto -	Ditto -	Ditto -	The same as for the offence -	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto -	Ditto	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto -	Ditto -	Bailable -	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.
200	Using as true any such declaration known to be false.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Ditto.
209	False claim in a Court of Justice	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years -	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Not bailable	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death - -	May arrest without warrant.	Warrant -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation -	Ditto -	Ditto -	Not bailable -	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons -	Ditto -	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.
229	Personation of a juror or assessor - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto -	Ditto -	Ditto -	Transportation for life or imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto -	Ditto -	Ditto -	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant -	Not bailable-	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a mint causing coin to be of a different weight or composition from that fixed by law.	Ditto -	Ditto -	Ditto -	Ditto - -	High Court.
245	Unlawfully taking from a mint any coining instrument.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
258	Sale of counterfeit Government stamp -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto -	Ditto -	Ditto -	Ditto - - -	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health	Shall not arrest without warrant.	Ditto	Ditto	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
281	Exhibition of a false light, mark, or buoy	Ditto	Warrant	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto	Ditto	Ditto	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
286	So dealing with any explosive substance	Ditto	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant	Not bailable.	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1. Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant	Not bailable.	Death	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act	Ditto	Ditto	Bailable	Imprisonment of either description for two years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine	High Court.
306	Abetting the commission of suicide	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
308	Attempt to commit culpable homicide	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, and fine.	Magistrate.
311	Being a thug	Ditto	Ditto	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	**Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.**	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	**Concealment of birth by secret disposal of dead body.**	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
			Of Hurt.			
323	**Voluntarily causing hurt - -**	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate.
324	**Voluntarily causing hurt by dangerous weapons or means.**	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	**Voluntarily causing grievous hurt -**	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
326	**Voluntarily causing grievous hurt by dangerous weapons or means.**	Ditto -	Ditto -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	**Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.**	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
328	**Administering stupefying drug with intent to cause hurt.**	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
329	**Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.**	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	**Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.**	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
331	**Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.**	Ditto -	Ditto -	Not bailable -	Imprisonment of either description for 10 years and fine.	Ditto.
332	**Voluntarily causing hurt to deter public servant from his duty.**	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	**Voluntarily causing grievous hurt to deter public servant from his duty.**	Ditto -	Ditto -	Not bailable -	Imprisonment of either description for 10 years and fine.	High Court.
334	**Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.**	Ditto -	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
	Of wrongful Restraint and wrongful Confinement.					
341	Wrongfully restraining any person	May arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Criminal Force and Assault.					
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences - -	May arrest without warrant.	Warrant -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft - - - - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto	Ditto -	Ditto -	Ditto - - -	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion - - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto -	Ditto -	Not bailable.	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto -	Ditto -	Ditto -	Transportation for life - -	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant	Not bailable.	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence	Ditto	Ditto	Ditto	Transportation for life	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant	Not bailable.	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	Ditto	Ditto	Ditto	Ditto	High Court.
396	Murder in dacoity	Ditto	Ditto	Ditto	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto.
399	Making preparation to commit dacoity	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 Offence.	Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto -	Ditto -	Ditto -	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property -	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation - -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a land-mark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto	Warrant	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
453	Lurking house-trespass or house-breaking	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.
468	Forgery for the purpose of cheating -	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto -	Ditto -	Ditto -	Punishment for forgery -	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Not bailable	Ditto - - -	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	If the document is a valuable security or will.	Ditto -	Ditto -	Ditto -	Transportation for life, or as above -	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
489	Removing, destroying, or defacing, any property-mark with intent to cause injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the life-time of a husband or wife.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery - - - - - -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation - - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto -	Ditto -	Ditto -	Ditto - - - -	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation	Ditto	Ditto	Bailable	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant	Not bailable	.....	High Court.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto	Ditto	Ditto	.....	High Court or Magistrate.
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons	Bailable	.....	Magistrate.
	If punishable with fine only	Ditto	Ditto	Ditto	.....	Ditto.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 47).

To *A. B.*, of

Whereas complaint has this day been made before the undersigned Presidency Magistrate for the Town of that you on the day of 187 at (*state shortly the offence complained*) contrary to section of the Indian Penal Code [*or* of Act No. of 18 , *as the case may be*] : You are hereby required to appear in person [*or* by advocate, attorney or pleader, *as the case may be*] on the day of 187 , at o'clock in the forenoon [*or* afternoon] at the Court of before such Magistrate as may then be present, to answer to the said complaint and to be further dealt with according to law.

Dated the day of

(*Signed*) *C. D.*

Presidency Magistrate.

B.

FORM OF WARRANT OF ARREST (*section* 56).

To (*name and designation of the person who is to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*) : You are hereby directed to apprehend the said and produce him at the Court of before such Magistrate as may then be present.

(*Signature.*)

Dated

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*section* 71).

To the officer in charge of the

Whereas of is accused of ( ) you are hereby required to receive the said into your custody and to produce him before by whom [*or* which] the offence of which he is accused is to be tried [*or* enquired into] from time to time when so required.

D.

FORM OF RECOGNIZANCE (*section* 72).

We, *A. B.* of , *C. D.* of and *E. F.* of , do hereby bind ourselves jointly and severally that the said *A. B.* will attend on the day of 187 at the Court of the Presidency Magistrate of and continue so to attend until otherwise directed by the said Magistrate, and will, if required, appear when called upon at the High Court of Judicature at to answer the charge of , and in case of the said *A. B.* making default herein, we the said *A. B.*, *C. D.* and *E. F.* bind ourselves jointly and severally to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signatures.*)

Dated the day of 187 .

E.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY PENDING TRIAL BEFORE THE HIGH COURT (*section* 89).

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*) and has been committed to take his trial before the Court of

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)

(*Office and powers.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*sections* 93, 140).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be,* to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF WARRANT OF COMMITMENT AFTER SENTENCE (*section* 184).

To , the officer in charge of the Jail.

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*), and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*) : You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated day of

H.

FORM OF RECOGNIZANCE TO KEEP THE PEACE (*section* 222).

Whereas I, *A. B.* [*or* we, *A. B.*, *C. D.*, *etc.*], of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself [*or* each of us hereby binds himself] not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my [*or* any of us] making default therein, I bind myself [*or* he binds himself] to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE RECOGNIZANCE OF THE PRINCIPAL.

I, *E. F.* of , hereby declare myself surety for the abovementioned *A. B.*, that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

I.

FORM OF RECOGNIZANCE FOR GOOD BEHAVIOUR (*section* 222).

Whereas I, , inhabitant of , have been called upon to enter into a bond to be of good behaviour to Her Majesty and to all Her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty, and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the abovesaid , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 97.)

(1).—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

(*b*). That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

On Penal Code, section 121.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature of the Magistrate.*]

[*To be substituted for* (*b*).]

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

On section 124.

(3). That you, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

On section 161.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On section 304.

(5.) That you, on or about the day of at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

On section 306.

(6.) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

On section 325.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

On section 392.

(8.) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

On section 395.

(9.) That you, on or about the day of , at , did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

On section 166.

(10.) That you, on or about the day of at , in the course of the trial of before stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

On section 193.

[*In cases tried by Magistrates, substitute* " within my cognizance " *for* " within the cognizance of

the High Court." *In* (c), *omit* "by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a*.) I, [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

(*b*.) *First*.—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

On Penal Code, sections 241 and 242.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c*.) And I hereby commit you to the said Court to be tried on the said charges.

[*Signature of the Magistrate*.]

For (*b*). *First*.—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 302 and 304.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

For (*b*). *First*.—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

ALTERNATIVE CHARGES.

For (*b*). That you, on or about the day of , at , in the course of the inquiry into before , stated in evidence that " and that you, on or about the day of , at in the course of the trial of before , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

Alternative charges on section 193.

In trials before Magistrates, substitute, "within my cognizance," *for* "within the cognizance of the High Court," *and omit* "by the said Court."

WHITLEY STOKES,
Secretary 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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th February 1877, and is hereby promulgated for general information :—

ACT No. IV OF 1877.

THE PRESIDENCY MAGISTRATES' ACT, 1877.

CONTENTS.

PREAMBLE.

PART I.

CHAPTER I.—PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
2. Repeal of Acts.
3. Saving of powers under local laws.
4. Matters indicated in second schedule.
5. Pending cases.
6. Definitions.

CHAPTER II.—CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

SECTIONS.

7. Establishment of Presidency Magistrates' Courts.
8. Appointment of Presidency Magistrates.
   Presidency Magistrates to be Justices of the Peace.
   Local limits of their jurisdiction.
   Bombay Court of Petty Sessions.
9. Appointment and powers of Chief Magistrate.
10. References in Acts to Magistrates of Police.
11. Sentences which Presidency Magistrates may pass.
12. Imprisonment in default of payment of fine.
    Proviso as to cases decided by Magistrate.
13. Sentence in cases of simultaneous conviction of several offences.
14. Offences under enactments not specifying Court authorized to try.
15. Offence committed in Magistrate's presence.
16. Power to record statements and confessions.
17. Power to compel restoration of abducted females.

PART II.

CHAPTER III.—THE PLACE OF INQUIRY AND TRIAL.

18. Place for inquiry and trial of offence.
19. Accused triable in district where act done, or where consequence ensues.
20. Place for trial where act is offence by reason of relation to other offence.

SECTIONS.

21. Place for inquiry or trial where scene of offence is uncertain ;
or offence not committed in one district only ;
or offence is continuing ;
or consists of several acts in different districts.
Offence committed on journey or voyage.
22. Being a thug, or dacoit.
Escaping from custody.
Criminal misappropriation and criminal breach of trust.
Murder as a thug, dacoity or dacoity with murder.
Stealing cattle.
23. High Court to decide, in case of doubt, district where inquiry shall take place.
24. Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

CHAPTER IV.—OF THE COGNIZANCE OF OFFENCES.

25. When Presidency Magistrate may take cognizance of offences.
26. Who may make complaints.
27. Process to compel appearance.
28. Jurisdiction given by complaint.
29. Complaint or sanction required in certain cases.
30. Magistrate to examine complainant.
31. Effect of omission to examine petitioner.
32. Dismissal of complaint.
33. Issue of process.
34. When summons may issue.
35. Where warrant or summons may issue on complaint.
36. Warrant to arrest, if summons not obeyed.
37. Magistrate may dispense with personal attendance of accused.

CHAPTER V.—OF PROSECUTIONS IN CERTAIN CASES.

38. Prosecutions for offences against the State.
39. Prosecution of Judges and public servants.
Power of Government as to prosecution.
Definitions of 'Government,' 'Judge' and 'Public servant.'
40. Prosecution for contempts of lawful authority of public servants.
41. Sanction to prosecution for certain offences against public justice.
42. Sanction to prosecution for certain offences relating to documents given in evidence.
43. Nature of sanction necessary.
44. Procedure in cases mentioned in section 40, 41 or 42.
45. Prosecution for adultery.
Prosecution for enticing away married woman.
46. Application to be deemed a complaint.

CHAPTER VI.—OF THE SUMMONS AND WARRANT.

SECTIONS.

47. Form of summons.
48. Summons how served.
49. Service when accused cannot be found.
Service on servants of Government and Railway Companies.
50. Service of summons outside Presidency Towns.
51. Proof of service in such cases and when server not present.
52. Provisions applicable to all summonses under Act.
53. Issue of warrant in addition to summons.
54. Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.
55. Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.
56. Form and direction of warrant.
Continuance of warrant.
57. Fees for summonses and warrants.
Power to remit fees.
58. When Magistrate may direct bail to be taken.
Recognizance to be forwarded.
59. Warrant to several persons.
60. Execution of warrant by Police-officer other than the one addressed.
61. Magistrate issuing warrant may superintend its execution.
62. Arrest in presence of Magistrate.
63. Where warrant may be executed.
64. Execution of warrant outside issuing Magistrate's jurisdiction.
65. Procedure on execution of warrant outside issuer's jurisdiction.
66. Magistrate and Police-officer.
67. Proclamation for person absconding.
Proclamation how published.
Evidence of publication.
68. Attachment of property of person absconding.
69. Restoration of forfeited property.

CHAPTER VII.—OF BAIL.

70. Custody of person arrested.
When bail shall be taken.
71. When bail shall not be taken.
When bail may be taken.
Warrant for intermediate custody.
72. Recognizance of accused and sureties.
73. Discharge on bail.
74. Admission to bail after failure in first instance.
75. Power to order sufficient bail when that first taken is insufficient.
76. Discharge of sureties.
77. Procedure to compel payment of penalty by accused.

SECTIONS.

78. Procedure to compel payment of penalty by sureties.
79. In what cases powers given by sections 77 and 78 may be exercised.
Remission of part of penalty.
80. Deposit instead of bail.

CHAPTER VIII.—OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

81. Procedure in preliminary inquiries.
82. Examination of complainant and witnesses for prosecution.
83. Examination to be in presence of accused.
Procedure in inquiries preliminary to commitment.
Accused may examine, cross-examine and re-examine.
84. Examination of accused how recorded.
85. Power of Magistrate to summon and examine any person.
86. Adjournment of inquiry and remand.
87. When accused person to be discharged.
88. When accused to be committed for trial.
89. Framing of charge on which accused is to be tried before High Court.
Form of commitment.
Charge, &c., to be forwarded to High Court.
Commitment when to be notified.
90. Charge to be explained, and copy furnished, to accused.
91. List of witnesses for defence on trial before High Court.
Further list.
Power to summon supplementary witnesses.
92. Summons to witnesses when accused person is to be committed.
93. Recognizances of complainants and witnesses.
Detention in custody in case of refusal to attend or to execute recognizance.

CHAPTER IX.—OF THE CHARGE.

Form of Charges.

94. Charge to state offence.
Specific name of offence, sufficient description.
How stated where offence has no specific name.
What implied in charges.
Language of charge.
Previous conviction when to be set out.
95. Particulars as to time, place and person.
96. When manner of committing offence must be stated.
97. Forms in schedule.
98. Effect of errors.
99. Prisoner may apply for amendment.
100. Magistrate may alter charge.

SECTIONS.

101. When trial may proceed immediately after alteration.
102. When new trial may be directed or trial suspended.
Adjournment.
103. Recall of witnesses when charge altered.
104. Stay of proceedings if prosecution of offence in altered charge require previous sanction.

Joinder of Charges.

105. Separate charges for distinct offences.
106. More offences than one of same kind may be charged within a year of each other.
107. I.—Trial of more than one offence.
II.—One offence falling within two definitions.
III.—Acts severally constituting more than one offence, but collectively coming within one definition.
108. Where it is doubtful what offence has been committed.
109. When a person is charged with one offence, he can be convicted of another.
110. When offence proved included in offence charged.
111. What persons may be charged jointly.
112. Withdrawal of remaining charges, on conviction on one of several charges.

Previous Acquittals or Convictions.

113. Person once convicted or acquitted not to be tried for same offence.

CHAPTER X.—OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. Cases may be tried summarily.
115. Record of evidence.
116. Charge when dispensed with.
Charge when necessary.
117. Effect on proceedings of defect in complaint or process.
118. Dismissal or adjournment on non-appearance of complainant.
119. Procedure on appearance of parties.
120. Conviction on admission of truth of complaint.
121. Procedure when no such admission is made.
122. Charge when drawn up.
123. Procedure on examining accused.
124. Adjournment.
125. Withdrawal of complaint.
126. Acquittal.
Sentence.
127. Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.
128. Trial of persons previously convicted of offences against coinage, stamp law or property.

General Provisions as to Inquiries and Trials.

SECTIONS.

129. Permission to conduct prosecution.
130. Right of accused to be defended.
131. Procedure where accused does not understand proceedings.
132. Presidency Magistrates' Courts to be open.
133. Compounding offences.

CHAPTER XI.—OF EVIDENCE.

A.—Of securing the Attendance of Witnesses.

134. Power to summon material witness or examine person present.
135. When warrant of arrest may issue in first instance.
136. Arrest of person disobeying summons.
137. Procedure when warrant cannot be served.
138. Attachment, &c., of property ordered to be attached under section 137.
139. Power to order prisoner in jail to be brought up for examination.
140. Power to order complaints, &c., to execute recognizances.
141. Committal of person refusing to answer.

B.—Of Witnesses.

142. In cases triable upon summons.
143. In cases triable upon warrant.

C.—Of securing Documentary Evidence.

144. Summons to produce document required as evidence.
145. Issue of search-warrant in first instance.
146. Procedure as to letters in custody of Postal Department or telegraph officer.
147. Power to impound document produced.

D.—Of the Examination of Accused Persons.

148. Examination of accused.
149. No influence to be used to induce disclosures.
150. Tender of pardon to accomplice.
151. Commitment of person to whom pardon has been tendered.

E.—Special Rules of Evidence.

152. Deposition of medical witness.
Power to summon medical witness.
153. Report of chemical examiner.
Genuineness of signature may be presumed.
Power to summon chemical examiner.
154. Previous conviction or acquittal how proved.
155. Record of evidence in absence of accused.
156. Convictions on evidence partly recorded by one Magistrate and partly by another.
157. When attendance of witness may be dispensed with.

SECTIONS.

158. Issue of commission and procedure thereunder.
Commission in case of witness being within Presidency town.
Complainant and accused may examine witness.
Return of commission.

F.—Of Search-warrants.

159. Search-warrant when grantable.
160. Search of house suspected to contain stolen property or forged documents.
161. Direction, &c., of search-warrants.
162. Persons in charge of closed place to allow search.
163. Place to be searched may be broken open.
164. Search of zanáná.
165. Search to be made in presence of witnesses.
Occupant of place searched may attend.
166. Mode of searching women.

CHAPTER XII.—OF APPEALS.

167. Appeal by person convicted.
168. Appeal by Government from order of acquittal.
169. Copy of order to accompany petition.
170. Copies of proceedings.
171. Procedure when appellant in jail.
172. Procedure on receiving petition of appeal.
Power to reject appeal summarily.
Power to call for record.
Sentence not to be enhanced when appeal rejected under this section.
173. Notice of day for hearing appeal.
Service of notice.
174. High Court may alter or reverse finding and sentence, or enhance sentence.
175. Suspension of sentence pending appeal.
Release of appellant on bail.
176. High Court may make or direct further inquiry.
177. Order when reversible by reason of error or defect in charge or proceedings.
178. Irregularity before trial properly held.
179. Procedure in case of conviction by Magistrate not having jurisdiction.
180. Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.
181. Notice to Public Prosecutor of intention to apply under Act X of 1875, section 147.
182. Magistrate may state grounds of his decision.

CHAPTER XIII.—OF EXECUTION.

183. Court to send accused, with warrant for execution of sentence, to officer in charge of jail.
184. Form and direction of warrant of commitment.

SECTIONS.

185. Levy of fine.
Section to what cases applicable.
Detention of offender until return made to distress-warrant.
Distress not illegal nor distrainer a trespasser for defect of form in proceedings.
Who may issue distress-warrant.
186. Payment of fine in compensation.
187. Whipping, if imposed in addition to imprisonment, in appealable case, when to be inflicted.
188. Mode of inflicting punishment of whipping.
189. Punishment not to be inflicted if offender not in fit state of health.
Stay of execution.
190. Not to be executed by instalments.
191. Procedure if punishment be prevented under section 189.
192. Currency of sentence on escaped convicts.
193. Commencement of sentence on offender already sentenced for other offence.

PART III.

CHAPTER XIV.—OF LUNATICS.

194. Procedure when accused is a lunatic.
195. When accused appears to have been insane.
196. Release of lunatic on bail.
Custody when bail not given.
197. Resumption of inquiry or trial.
198. Procedure on accused appearing before Magistrate.
199. Finding in case of acquittal on ground of being lunatic.
200. Procedure when lunatic committed the act alleged.
201. Visiting of lunatic prisoners.
202. Procedure where lunatic prisoner reported capable of making defence.
203. Procedure where lunatic confined under section 199 is declared capable of being discharged.
204. Delivery of lunatic to care of relative.

CHAPTER XV.—OF CONTEMPTS OF COURT.

205. Procedure in certain cases of contempt.
206. Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.
207. Discharge of offender on submission or apology.

CHAPTER XVI.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.

SECTIONS.

208. Personal recognizance to keep the peace in cases of conviction.
209. Sureties for keeping the peace.
210. Commencement of period during which person may be bound to keep the peace.
211. Extension of time for which person is bound.

B.—Security for Good Behaviour.

212. When Magistrate may require security for good behaviour for six months.
213. When Magistrate may require security for good behaviour for one year.
214. Procedure where security required for more than one year.

C.—Provisions as to both kinds of Security.

215. Summons to person to show cause why he should not give bond to keep the peace or for good behaviour.
216. Contents of summons.
217. When warrant of arrest may issue.
218. Magistrate may dispense with personal attendance of person informed against.
219. Discharge of person informed against.
220. Order to give bond and consequence of non-compliance.
221. Proceedings to be laid before High Court.
222. Contents of order for security.
Form of recognizance.
223. Imprisonment in default of security.
Term of imprisonment.
224. Binding of sentenced person.
225. Release of prisoner under requisition of security.
Release of prisoner under requisition of security by order of High Court.
226. Discharge of sureties.
227. Commission, &c., of offence a breach.
228. Recovery of penalty from principal.
229. Recovery of penalty from surety.
230. Proof of previous conviction.
231. Where proceedings under this chapter may be taken.
232. Provisions of chapter not applying to European vagrants.

CHAPTER XVII.—OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

233. Power to restore possession of immoveable property.

CHAPTER XVIII.—OF THE MAINTENANCE OF WIVES AND FAMILIES.

SECTIONS.

234. Order for maintenance of wives and children.
Enforcement of order.
Proviso.
235. Alteration in allowance.
236. Enforcement of order.

PART IV.

CHAPTER XIX.—MISCELLANEOUS.

237. Procedure in miscellaneous criminal cases and proceedings.
238. Offences against Railway, Telegraph, Post Office and Arms' Acts.
239. Extent of jurisdiction.
240. Reference to High Court.
241. Disposal of case according to decision of High Court.
Direction as to costs.
242. Compensation to person groundlessly given in charge or complained against.
243. Order for disposal of property regarding which offence committed.
244. Power to order disposal of property connected with charge, in police-custody.
245. Expenses of complainants and witnesses.
246. All persons to give information of certain offences.
247. All persons to assist Magistrate and Police in certain cases.

THE FIRST SCHEDULE—ENACTMENTS REPEALED.

THE SECOND SCHEDULE—TABULAR STATEMENT OF OFFENCES.

THE THIRD SCHEDULE—FORMS.

An Act to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

Preamble.

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

PART I.

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Presidency Magistrates' Act, 1877":

Commencement.

And it shall come into force on the first day of April 1877.

Repeal of Acts.

2. On and from that day the Acts mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

Saving of powers under local laws.

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

Matters indicated in second schedule.

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

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any law referred to in section 14,

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

whether the offence is bailable or not,

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

The punishment for each offence under the Indian Penal Code is indicated by the sixth column of the same schedule.

Pending cases.

5. Cases pending when this Act comes into force in any of the Courts of Police Magistrates, or in the town of Bombay in the Court of Petty Sessions, shall be dealt with, as far as may be, according to the procedure herein provided.

Definitions.

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

"writing." "writing" includes print, lithography, photography and engraving:

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

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

"chapter." "chapter" means a chapter of this Act:

"place." "place" includes also house, building and vessel: and

Words referring to acts done. words which refer to acts done extend also to illegal omissions.

CHAPTER II.—CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

Establishment of Presidency Magistrates' Courts.

7. The Local Government may, with the sanction of the Governor General in Council,

(*a*) constitute within the towns of Calcutta, Madras and Bombay, respectively, so many divisions as the said Government thinks fit,

(*b*) define the extent thereof respectively,

(*c*) from time to time alter the number of such divisions and their respective extents, and

(*d*) establish a Presidency Magistrate's Court for each of such divisions.

Appointment of Presidency Magistrates.

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

Any such person may sit and act as a Magistrate in any of the said Courts, and any two or more of such persons may (subject to rules made under section 9) sit together as a Bench.

All persons appointed under this section shall be called Presidency Magistrates.

Presidency Magistrates to be Justices of the Peace.

Every such person shall, by virtue of his office, be a Justice of the Peace for the town of which he is a Magistrate,

Local limits of jurisdiction.

and shall exercise jurisdiction in all places within the local limits of the ordinary original criminal jurisdiction of the High Court, and within the limits of the port of such town and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

The area comprised within such local limits shall be deemed to be a district within the meaning of the Code of Criminal Procedure and of this Act.

Bombay Court of Petty Sessions.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which, under any law in force immediately before the passing of this Act, may be exercised by the Court of Petty Sessions, and such Court is hereby abolished.

Appointment and powers of Chief Magistrate.

9. In each of the said towns the Local Government shall appoint one of the Presidency Magistrates to be Chief Magistrate. Such Magistrate shall exercise in such town all the powers which by any law or rule are required to be exercised by any Senior or Chief Magistrate, and may, with the previous sanction of the Local Government, make rules, consistent with this Act, to regulate

(*a*) the conduct and distribution of business and secure uniformity of practice in the Courts of the Magistrates of the Town:

(*b*) the times and places at which Benches of Magistrates shall sit:

(*c*) the constitution of Benches:

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session.

Notwithstanding the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

References in Acts to Magistrates of Police.

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

Sentences which Presidency Magistrates may pass.

11. Any Presidency Magistrate may pass the following sentences:—

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

Fine not exceeding one thousand rupees:

Whipping.

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

EXPLANATION.—A Presidency Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award. But no punishment inflicted under this section shall exceed the punishment provided for the offence by the Indian Penal Code or any special or local law.

Imprisonment in default of payment of fine.

12. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Presidency Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in fixing the period of imprisonment in default of payment of the fine:

Provided that, in no case decided by a Presidency Magistrate, where imprisonment has been inflicted as part of the substantive sentence, shall the period of imprisonment inflicted in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso as to cases decided by Magistrate.

Where a person is sentenced to fine only, the Presidency Magistrate may fix such term of imprisonment in default of payment of fine as is allowed by law, provided the term does not exceed two years.

13. When a person is convicted, at one trial, of two or more offences punishable under the same section or different sections of any law, the Presidency Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such law which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other:

Sentence in cases of simultaneous conviction of several offences.

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction competent to inflict.

14. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by a Presidency Magistrate. But no such Magistrate shall pass any sentence in excess of his powers.

Offences under enactments not specifying Court authorized to try.

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

Offence committed in Magistrate's presence.

16. A Presidency Magistrate may record any confession or other statement made to him at any place within the local limits of his jurisdiction by any person with reference to any offence.

Power to record statements and confessions.

Such confessions shall be recorded in the manner provided by section 84, and such statements shall be recorded in the manner prescribed in section 115, clauses 3, 4 and 5, and such statements and confessions shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried.

No Presidency Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily; and on recording any such confession, he shall make a memorandum at the foot thereof to the following effect:—

"I believe that this confession was voluntarily made. It was read over to the person making it and was admitted by him to be correct."

(Signed) *A. B.*,
Presidency Magistrate.

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

Power to compel restoration of abducted females.

PART II.

CHAPTER III.—THE PLACE OF INQUIRY AND TRIAL.

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

Place for inquiry and trial of offence.

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

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

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

Illustrations.

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

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

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

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

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

Illustrations.

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

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

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

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

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

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

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

or offence not committed in one district only;

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

or offence is continuing;

where an offence consists of several acts done in different districts,

or consists of several acts in different districts;

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

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

or offence is committed on journey or voyage.

22. The offence of being a thug, or of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into and tried wherever the accused person happens to be when the complaint is made.

Being a thug or dacoit. Escaping from custody.

The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried either in the district in which the property which is the subject of the offence was received by the accused person, or in any other district in which the offence was committed.

Criminal misappropriation and criminal breach of trust.

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

Murder as a thug, dacoity or dacoity with murder.

The offence of stealing an animal may be inquired into and tried either in the district in which such animal was stolen, or in any other district through or into which it was conveyed.

Stealing cattle.

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

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

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

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

CHAPTER IV.—OF THE COGNIZANCE OF OFFENCES.

25. A Presidency Magistrate may take cognizance of any offence—

When Presidency Magistrate may take cognizance of offences.

(*a*) upon receiving a complaint by a private person,

(*b*) upon information or report by a Police officer,

(*c*) upon information received under section 246,

(*d*) if committed in his presence,

(*e*) upon application under chapter V.

26. Any person acquainted with the facts of a case may make a complaint.

Who may make complaints.

27. On receipt of a complaint a Presidency Magistrate may, if the person complained of be not already in custody, proceed by summons or warrant to compel his appearance;

Process to compel appearance.

and in the cases mentioned in section 25, clauses (*b*), (*c*), (*d*) and (*e*), the Presidency Magistrate may proceed as if he had received a complaint.

28. A complaint gives jurisdiction to a Presidency Magistrate—

Jurisdiction given by complaint.

(*a*) to inquire into or try (as the case may be) any offence covered by the facts complained of, or disclosed on such inquiry or trial,

(*b*) to try or commit for trial (as the case may be) any person not complained against, but who, at the time when the complaint is made, or subsequently, appears to have committed any offence so disclosed, and

(*c*) to issue process for the arrest or to compel the appearance of such person.

29. Nothing in section 27 or 28 shall be held to authorize a Presidency Magistrate to take cognizance, without complaint, of any offence falling under chapters XIX, XX or XXI of the Indian Penal Code; nor without sanction to receive a complaint, or to take cognizance without complaint of any offence, where such complaint or offence, by any law in force for the time being, may not be received or taken cognizance of without sanction.

Complaint or sanction required in certain cases.

30. Whenever a complaint is made to a Presidency Magistrate, such Magistrate, if he has jurisdiction in the case, shall examine the complainant; and such examination may be on oath or affirmation, or not, as the Magistrate in each case thinks fit:

Magistrate to examine complainant.

Provided that the Magistrate, if he thinks fit, may, before the matter of the complaint is brought before him, require it to be reduced to writing.

31. Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

Effect of omission to examine petitioner.

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

Dismissal of complaint.

The dismissal of a complaint shall not prevent subsequent proceedings against the person complained against.

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

Issue of process.

34. When a complaint is made before a Presidency Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may (subject to the provisions of section 4) issue his summons directed to such person, requiring him to appear to answer the complaint, at a certain time and place, before such Magistrate as may then be there.

When summons may issue.

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

35. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed, or is suspected of having committed—

Where warrant or summons may issue on complaint.

(*a*) any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, or

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

such Magistrate may (subject to the provisions of section 4) issue his warrant to arrest such person, or, if the thinks fit, his summons directed to such person, requiring him to appear to answer the complaint at a certain time and place before such Magistrate as may then be there.

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

Warrant to arrest, if summons not obeyed.

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

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

37. Whenever the Magistrate issues a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by his advocate, attorney or pleader.

Magistrate may dispense with personal attendance of accused.

But such Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the accused person, and, if necessary, enforce such attendance by issuing a warrant to arrest him.

CHAPTER V.—OF PROSECUTIONS IN CERTAIN CASES.

38. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, shall not be received by any Presidency Magistrate, unless it be made by order of, or under authority from, the Governor General in Council or the Local Government, or some officer empowered by the Governor General in Council or the Local Government to order or authorize such complaint, or unless it be made by the Advocate General.

Prosecutions for offences against the State.

39. A complaint of an offence of which any Judge or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be received by any Presidency Magistrate, except with the previous sanction or under the direction,

Prosecution of Judges and public servants.

(*a*) of the Government, or

(*b*) of some officer empowered in this behalf by the Government, or

(*c*) of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such complaint has not been limited by the Government.

No such Judge or public servant shall, unless with the previous sanction of the Government, be prosecuted for any act purporting to be done by him in the discharge of his duty.

The Government may, in any case or class of cases, prescribe the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial shall be held.

Power of Government as to prosecution.

In this section, the expression "Government" means either the Local Government or the Governor General in Council, and the expressions "Judge" and "public servant" have the meaning assigned to them respectively by the Indian Penal Code.

Definition of "Government," "Judge" and "public servant."

40. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179, 180 or 228 of that Code, shall not be received by any Presidency Magistrate, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

Prosecution for contempts of the lawful authority of public servants.

41. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be received by any Presidency Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences against public justice.

42. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be received against any party to or witness in such proceedings, by any Presidency Magistrate, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

43. The sanction referred to in sections 40, 41 and 42 respectively may be expressed in general terms, and need not name the accused person, and may be given at any time. But it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence is alleged to have been committed.

Nature of sanction necessary.

A sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Presidency Magistrate to alter the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

44. When any civil, criminal or other Court inferior to a High Court is of opinion that there is sufficient ground for inquiring into any complaint mentioned in section 40, 41 or 42, such Court may either itself inquire into and commit the case for trial before the High Court, or may send the case for disposal to any Presidency Magistrate having jurisdiction.

Procedure in cases mentioned in section 40, 41 or 42.

The Court may send the accused person in custody, or take sufficient bail for his appearance, before such Magistrate; and may bind over any person to appear and give evidence in the case.

Nothing in this section shall prevent a Presidency Magistrate from disposing of cases under sections 172, 173, 174 and 175 of the Indian Penal Code where he himself is the public servant concerned.

45. A complaint of an offence under section 497 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the other person (if any) under whose care she was living at the time when the adultery was committed.

Prosecution for adultery.

A complaint of an offence under section 498 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the person (if any) having the care of her on behalf of her husband at the time when the offence was committed.

Prosecution for enticing away married woman.

46. The application of the public servant or Court to a Presidency Magistrate to inquire into or try any case under this chapter shall be deemed a sufficient complaint.

Application to be deemed a complaint.

CHAPTER VI.—OF THE SUMMONS AND WARRANT.

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

Form of summons.

48. If the accused person can be found, the summons shall be served on him personally, wherever he may be, by delivering or tendering the summons to him.

Summons how served.

Every person to whom a summons is delivered or tendered under this section shall, if required by the person delivering or tendering the same, sign a receipt therefor, or countersign a copy thereof.

49. If the accused person cannot be found, the summons may be served by leaving it for him with some adult male member or servant of his family residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof. If there is no such member or servant with whom the summons can be left, the serving officer shall fix it on some conspicuous part of the house in which the accused person ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

Service when accused cannot be found.

When the person summoned is in the service of Government or of any Railway Company, the Magistrate issuing the summons may send it to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served in manner hereinbefore provided.

Service on servants of Government and Railway Companies.

50. When a summons issued by a Presidency Magistrate is to be served at any place outside the local limits of his jurisdiction, he may send the summons in duplicate to the Magistrate of the place where the accused resides or is, to be there served.

Service of summons outside Presidency Towns.

51. When a summons issued by a Presidency Magistrate is served outside such local limits as aforesaid, and also in cases where the person who has served the same is not present at the hearing of the complaint, the service may be proved—

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

(*a*) by a solemn declaration, purporting to be made before a Magistrate, that such summons has been served, and such declaration may be endorsed on the duplicate summons and returned to the Magistrate who issued the summons, or

(*b*) by a copy of the summons purporting to be countersigned by the person to whom it is addressed, or

(*c*) by a receipt under section 48.

52. The provisions relating to a summons, its issue and service, contained in sections 47 to 51 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

53. A Presidency Magistrate may, notwithstanding the issue of a summons under this chapter, either before the appearance of the accused person as required by such summons, or after he fails so to appear, issue a warrant of arrest against him.

Issue of warrant in addition to summons.

54. A Presidency Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence alleged or suspected to have been committed by such person in a different district, or on the high seas, or in a foreign country: provided that if the offence were committed within such local limits, the Magistrate might issue a summons or warrant.

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

55. On the attendance or apprehension of such person, if the Presidency Magistrate has not jurisdiction in the case, he shall either send such person to the Magistrate within the local limits of whose jurisdiction the offence is alleged to have been committed, or if the offence is bailable, take bail for his appearance before such Magistrate.

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

When the Presidency Magistrate cannot satisfy himself as to the Magistrate to whom the person so attending or arrested should be sent, he shall report the case for the orders of the High Court.

56. Every warrant issued by a Presidency Magistrate shall be in writing under his hand, shall be directed to one or more Police-officers, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form and direction of warrant.

A warrant issued under this Act remains in force until it is cancelled by the Magistrate who issued it, or until it is executed.

Continuance of warrant.

57. A fee of eight annas shall be paid for every summons or warrant issued by a Presidency Magistrate, except in the case of a summons to attend and give evidence or to produce documents, in which case there shall be paid a fee of four annas:

Fees for summonses and warrants.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the complainant is unable to pay the same, and shall remit it when the complaint is made by a public servant in the execution of his duty.

Power to remit fees.

58. A Presidency Magistrate, in issuing a warrant for the arrest of any person, may in his discretion direct by endorsement on the warrant, that if such person give sufficient bail as therein mentioned for his appearance before the Magistrate on a specified day to answer the complaint, the officer to whom the warrant is directed shall take such bail, and shall release such person from custody.

When Magistrate may direct bail to be taken.

The endorsement shall state (*a*) the number of sureties, (*b*) the amount in which they and the accused person are to be respectively bound, and (*c*) the day on which he is to appear before the Magistrate.

If bail be taken, the officer to whom the warrant is directed shall forward the recognizance to the Presidency Magistrate.

Recognizance to be forwarded.

59. When a warrant is directed to more Police-officers than one, it may be executed by all, or by any one or more, of such officer.

Warrant to several persons.

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

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

61. Any Presidency Magistrate who issues a warrant of arrest may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

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

Arrest in presence of Magistrate.

63. A warrant issued by a Presidency Magistrate shall ordinarily be executed within the local limits of his jurisdiction.

Where warrant may be executed.

But if the person against whom the warrant is issued goes into, or is in, any place outside such limits, the warrant may be executed in such place.

64. A Presidency Magistrate may direct a warrant to be executed outside the local limits of his jurisdiction, either with or without endorsement by a Magistrate within the local limits of whose jurisdiction it is to be executed.

Execution of warrant outside issuing Magistrate's jurisdiction.

Such warrant shall ordinarily be endorsed by the Magistrate within the local limits of whose jurisdiction it is to be executed.

The warrant may be forwarded to such Magistrate for endorsement, either by post or by any Police-officer to whom it is directed.

The Magistrate to whom such warrant is forwarded by post shall endorse his name thereon and cause it to be executed within the local limits of his jurisdiction.

If the warrant is forwarded by a Police-officer to whom it is directed, he may take it either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall be bound to assist such officer in executing the warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Magistrate who issued it.

65. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Presidency Magistrate who issued the warrant be within twenty miles, or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 58, be brought before the Magistrate within the local limits of whose jurisdiction the arrest was made.

Procedure on execution of warrant outside issuer's jurisdiction.

Such Magistrate shall, if the person arrested appears to be the person intended by the Presidency Magistrate, direct his removal in custody to such Magistrate, unless such person is then ready and willing to give the bail (if any) required under section 58, in which case the Magistrate before whom he is so brought shall accept such bail and forward the recognizance to the Presidency Magistrate.

66. Every Magistrate or Police-officer to whom a warrant under this Act is directed for execution shall execute the same, or cause it to be executed.

Magistrate and Police-officer.

67. If a Presidency Magistrate having jurisdiction in the case has reason to believe that any person accused of an offence not coming within section 34 is absconding or concealing himself, so that a warrant issued against him under this Act cannot be executed, such Magistrate may issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days from the date of publishing the proclamation.

Proclamation for person absconding.

Such proclamation shall be published as follows—

Proclamation how published.

(*a*) it shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides;

(*b*) it shall be affixed to some conspicuous part of his ordinary place of abode, or some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly published shall be conclusive evidence of compliance with the requirements of this section.

Evidence of publication.

68. A Presidency Magistrate may order the attachment of any property, moveable or immoveable, belonging to any person believed to be absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the local limits of the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without such local limits when endorsed by the Magistrate of the district in which such property is situate.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and, in all other cases, (*a*) by seizure under the order of the Magistrate having jurisdiction; or (*b*) by the appointment of a manager and receiver; or (*c*) by an order prohibiting the payment of rent to the absent person; or by all or any two of such processes as such Magistrate deems proper.

If the person so believed to be absconding or concealing himself does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months from the date of the attachment, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Magistrate may cause it to be sold whenever he thinks fit.

69. When any person whose property is or has been at the disposal of Government under the last paragraph of section 68 appears or is found within two years from the date of the attachment, and proves to the satisfaction of the Magistrate by whose order the property was attached that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Restoration of forfeited property.

CHAPTER VII.—OF BAIL.

70. Every person arrested under this Act shall be kept in custody until he is discharged by the order of a competent Court, or until he is admitted to bail.

Custody of person arrested.

When any person appears or is brought before a Presidency Magistrate accused of any bailable offence, such person shall be admitted to bail: Provided that, in cases punishable with fine only, or with imprisonment for a term not exceeding six months, or with both, the Magistrate may discharge him on his binding himself by a personal recognizance in such sum of money as the Magistrate thinks sufficient, to appear and attend at the time and place therein mentioned, and to continue so to attend until otherwise directed by the Magistrate.

When bail shall be taken.

71. When any person accused of any non-bailable offence appears or is brought before a Presidency Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail shall not be taken.

If the evidence given in support of the complaint is, in the opinion of the Magistrate, not such as to afford such grounds,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt,

but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

But if the Magistrate decide not to admit the accused person to bail, he shall commit him to custody by a warrant in the form (C) given in the third schedule hereto annexed, or to the like effect.

Warrant for intermediate custody.

Any Presidency Magistrate may, at any subsequent stage of any proceeding under this Act, cancel the admission under this section of any accused person to bail, and may commit him to custody, or may admit to bail any person who has been committed to custody under this section.

72. When any person accused before a Presidency Magistrate of any offence is admitted to bail, a recognizance, in such sum

Recognizance of accused and sureties.

of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue so to attend until otherwise directed by the Magistrate, and, if required, shall appear when called upon at the High Court, to answer the charge.

It is the duty of the Presidency Magistrate or other officer accepting bail to satisfy himself that every surety entering into such recognizance is a person of whom it may reasonably be presumed that he can, if necessary, satisfy its terms.

Every such recognizance shall be in the form (D) given in the third schedule hereto annexed, or to the like effect.

Discharge on bail.

73. After the recognizance has been entered into, the Presidency Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him; and in case he is in some jail, shall issue a warrant of release to the officer in charge of the jail, and such officer shall thereupon release him.

Admission to bail after failure in first instance.

74. If the accused person cannot find sufficient bail when permitted so to do, he may, if the Presidency Magistrate thinks fit, be admitted to bail upon finding the same at any time afterwards before conviction.

Power to order sufficient bail when that first taken is insufficient.

75. If, through mistake or fraud, insufficient bail have been taken, or if the bail become afterwards insufficient, the Presidency Magistrate may issue his warrant of arrest directing that the accused person be brought before him and may order such person to find sufficient bail, and on his failing so to do may commit him to prison.

Discharge of sureties.

76. The sureties for the attendance and appearance of an accused person admitted to bail may, at any time, apply to a Presidency Magistrate to discharge their recognizance.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the accused person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizance of the sureties to be discharged, and shall call upon the accused person to find other sufficient sureties, and if he fail to do so, may commit him to prison.

Procedure to compel payment of penalty by accused.

77. Whenever, by reason of default of attendance or appearance of the person bailed, a Presidency Magistrate is of opinion that proceedings should be had to recover the penalty mentioned in the recognizance into which such person has entered, he shall proceed to recover the same, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the local limits of the jurisdiction of such Magistrate.

Such warrant may be executed within such limits, and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

Procedure to compel payment of penalty by sureties.

78. Whenever, by reason of default of attendance or appearance of the person bailed, the Presidency Magistrate is of opinion that proceedings should be had to recover from the sureties the penalty mentioned in the recognizance, he shall give them notice to pay the same, or to show cause why it should not be paid.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Presidency Magistrate shall proceed to recover the penalty from such sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to them, or either of them, which may be found within the local limits of the jurisdiction of such Magistrate. Such warrant may be executed within such limits; and it shall authorize the attachment and sale of any moveable property belonging to the sureties, or either of them, without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, such sureties shall be liable to confinement, by order of the Presidency Magistrate, in the civil jail, during a period not exceeding six months.

In what cases powers given by sections 77 and 78 may be exercised.

79. The powers given by sections 77 and 78 may be exercised by every Presidency Magistrate in every case in which a recognizance has been given for the appearance of any person, if default is made by the non-appearance of such person before such Magistrate, according to the conditions of the recognizance:

Remission of part of penalty.

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in any such recognizance and enforce payment in part only.

Deposit instead of bail.

80. When any person is required by a Presidency Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as the Magistrate may fix in lieu of such bail.

CHAPTER VIII.—OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

Procedure in preliminary inquiries.

81. Cases, triable by a High Court in the exercise of its ordinary original criminal jurisdiction, of which, in the opinion of the Presidency Magistrate before whom the accused person is brought, ought to be tried by such Court, shall be inquired into by a Presidency Magistrate; and in such inquiry he shall adopt the following procedure.

Examination of complainant and witnesses for prosecution.

82. When the accused person appears or is brought before the Magistrate, or if his personal attendance is dispensed with, after reasonable notice to his advocate, attorney or pleader, the Magistrate shall, at such time as he thinks fit, take the evidence of the complainant and of such persons as are stated by the complainant to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Such evidence shall be recorded in the manner described in clauses 3, 4 and 5 of section 115.

Examination to be in presence of accused.

83. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or, when his personal attendance is dispensed with, of his advocate, attorney or pleader (if any).

The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Procedure in inquiries preliminary to commitment.

Examination of accused how recorded.

84. Whenever an accused person is examined in the course of a preliminary inquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Power of Magistrate to summon and examine any person.

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

Adjournment of inquiry and remand.

86. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to adjourn the inquiry, the Magistrate may, by a written order, from time to time adjourn the inquiry on such terms as he thinks fit and remand the accused person for a reasonable time, not exceeding fifteen days.

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

When accused person to be discharged.

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

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

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

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

When accused to be committed for trial.

88. When evidence has been given before a Presidency Magistrate, which appears to justify him in committing the accused person for trial for an offence triable exclusively by the High Court, or which, in the opinion of the Magistrate, ought to be tried by such Court, the accused person shall be committed for trial accordingly.

Framing of charge on which accused is to be tried before High Court.

89. When the Magistrate determines to commit the accused person for trial before the High Court, he shall, after the evidence has been recorded, frame a charge under his hand, declaring with what offence the accused person is charged, and (subject to the provisions of the High Courts' Criminal Procedure Act, 1875) committing him for trial by such Court on such charge.

All such charges shall be drawn up in accordance with the provisions of chapter IX.

Form of commitment.

Pending such trial, the Magistrate may commit the accused person to custody by warrant in the form (E) given in the third schedule hereto annexed, or to the like effect, or may in case of a bailable offence release him on bail; and the charge, the record of the enquiry, and any weapon or other article necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

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

Commitment when to be notified.

When the accused person is committed for trial before the High Court, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge.

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

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

List of witnesses for defence on trial before High Court.

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

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

Further list.

The Magistrate may in his discretion allow the accused person to give in any further list of witnesses at a subsequent time.

Power to summon supplementary witnesses.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial. Such examination shall, if possible, be taken in the presence of the accused person.

Nothing in this section shall be deemed to preclude the accused person from giving at any time before his trial before the High Court to the

Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Summons to witnesses when accused person is to be committed.

92. When the person accused has been committed for trial, and has given in any list of the persons referred to in section 91, the Magistrate may either summon such persons to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Recognizances of complainants and witnesses.

93. Complainants and witnesses for the prosecution and defence, whose attendance before the High Court is necessary, and who appear before the Presidency Magistrate, shall execute before him recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute recognizance.

If any complainant or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Presidency Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him in custody to the High Court.

CHAPTER IX.—OF THE CHARGE.

Form of Charges.

Charge to state offence.

94. Every charge under this Act shall state the offence with which the accused person is charged.

Specific name of offence sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused person notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge shall be written in English. If English is not understood by the accused person, the charge shall be interpreted to him in a language which he understands.

Previous conviction when to be set out.

If the accused person has been previously convicted of any offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, or of any other offence mentioned in section 3 or section 4 of Act No. VI of 1864 (*to authorise the punishment of whipping in certain cases*), and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If such statement is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception 1, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

95. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom, or the thing in respect of which, it was committed, as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

When manner of committing offence must be stated.

96. When the nature of the case is such that the particulars mentioned in sections 94 and 95 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

97. The charge may be in the form given in the third schedule to this Act or to the like effect.

Effect of errors.

98. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 96, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Prisoner may apply for amendment.

99. Any accused person may apply to a Presidency Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Magistrate shall take into account the fact that he did or did not make such an application.

Magistrate may alter charge.

100. A Presidency Magistrate may, upon the application of the accused person, or of the complainant, or upon his own motion, alter any charge at any stage of the proceedings before judgment is pronounced.

Every such alteration shall be read and explained to the accused person.

When trial may proceed immediately after alteration.

101. If the alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may in his discretion, after making such alteration, proceed with the trial as if the altered charge had been the original charge.

When new trial may be directed or trial suspended.

102. If the alteration is such that proceeding immediately with the trial is likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the altered charge; and, after hearing his defence, the Magistrate may further adjourn the trial, to admit of the appearance of any witness whose evidence the Magistrate may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

Adjournment.

Recall of witnesses when charge altered.

103. In all cases of alteration of a charge, the complainant and accused person shall be allowed to recall and examine with reference to such alteration any witness who may have been examined.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

104. If the offence stated in the altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered charge is founded.

Joinder of Charges.

Separate charges for distinct offences.

105. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

More offences than one of same kind may be charged within a year of each other.

106. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged with, and tried at the same time for, any number of them not exceeding three.

I.—Trial of more than one offence.

107. I.—If in one series of acts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II.—One offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be inflicted for any of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences, which he may have committed; but he must not receive for such offences, collectively, a punishment more severe than that which might have been inflicted for any one of such offences.

Illustrations

to paragraph I—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grevious hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b*) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, convicted of, and punished for, the possession of each seal, under section 473 of the Indian Penal Code.

(*c*) A, with intent to cause injury to B, institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding. A also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 of the Indian Penal Code.

(*e*) A, knowing that B, a female minor, has been kidnapped in order that she may be subjected to grievous hurt, wrongfully confines her and detains her against her will as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(*g*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, each of the three offences under section 302 of the Indian Penal Code.

The separate charges referred to in illustrations (*a*) to (*h*) respectively may be tried at the same time.

to paragraph II—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 323 only.

(*j*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then moves the carcase in order to take it dishonestly out of B's possession without B's consent. A, may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 429 only.

(*k*) Several stolen sacks of corn are made over to A and B who know they are stolen property. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Presidency Magistrate who tries them may not inflict a severer punishment than if he had convicted them under one of those sections only.

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under one of those sections only.

to paragraph III—

(*m*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

(*n*) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 392 or 394 only.

(*o*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

108. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

109. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

When a person is charged with one offence, he can be convicted of another.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

110. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

When offence proved included in offence charged.

Illustrations.

(*a*). A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b*). A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

111. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Presidency Magistrate thinks fit, and the provisions contained in the former part of this chapter shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(*a*). A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b*). A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c*). A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

112. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the Government Solicitor or other

Withdrawal of remaining charges on conviction on one of several charges.

officer conducting the prosecution, may, with the consent of the Presidency Magistrate, withdraw, or such Magistrate of his own accord may suspend, the inquiry into, or trial of, the remaining charge or charges.

Previous Acquittals or Convictions.

113. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 108, or for which he might have been convicted under section 109.

Person once convicted or acquitted not to be tried for same offence.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 107, paragraph one.

A person acquitted or convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts, which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed: he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for an assault and convicted. The person assaulted afterwards dies. A may be tried again for culpable homicide.

(*d*) A is tried, under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life, and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e*) A is charged by a Presidency Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts, unless the case comes within paragraph three of this section.

(*f*) A is charged by a Presidency Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g*) A, B and C are charged by a Presidency Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

CHAPTER X.—OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. The following procedure shall be observed in the trial of cases by Presidency Magistrates.

Cases may be tried summarily.

In every such case the Magistrate shall record the following particulars:

(*a*) the serial number,
(*b*) the date of the commission of the offence,
(*c*) the name of the complainant,
(*d*) the name of the accused person,
(*e*) the offence complained of or proved,
(*f*) the prisoner's plea,
(*g*) the final order,
(*h*) the date of such order.

115. No Presidency Magistrate shall impose a fine exceeding two hundred rupees or imprisonment for a term exceeding six months, unless he has recorded the evidence of the witnesses.

Record of evidence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

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

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

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

116. In cases punishable with fine only, or with imprisonment for a term not exceeding six months, or with both, no formal charge need be made against the accused person; and the Magistrate may convict him of any offence punishable with fine only or with imprisonment for a term not exceeding six months, or with both, and which, from the facts proved, he appears to have committed.

Charge when dispensed with.

In cases in which the Magistrate has power to impose imprisonment for a term exceeding six months, there shall be a formal charge against the accused person.

Charge when necessary.

All charges under this section shall be drawn up by the Magistrate in accordance with the provisions of chapter IX.

117. Neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. No defect in the complaint or process shall invalidate the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

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

Dismissal or adjournment on non-appearance of complainant.

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

Procedure on appearance of parties.

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

Conviction on admission of truth of complaint.

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

Procedure when no such admission is made.

122. Whenever any charge is drawn up under this Act, it shall be drawn up as soon as the Magistrate is of opinion that a *primâ facie* case has been established against the accused person, and shall be read and explained to the accused person, and he shall be asked whether he is guilty or has any defence to make.

Charge when drawn up.

123. If the accused person be examined, the procedure prescribed in section 84 shall be followed.

Procedure on examining accused.

124. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing, on such terms as he thinks fit, to a day to be then appointed and stated in the presence of the parties.

Adjournment.

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

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

125. If a complainant, at any time before a final order is passed in any case punishable with fine only or with imprisonment for a term not exceeding six months, or with both, satisfies the said Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to do so.

Withdrawal of complaint.

The withdrawal under this section of a complaint shall operate as an acquittal of the accused person.

126. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him; and, in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, he shall add to the final order mentioned in section 114, clause (*g*), a brief statement of the reasons for the conviction.

Sentence.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate shall be pronounced in his presence, except where the sentence is for fine only, in which case it may be pronounced in the presence of the accused person's advocate, attorney or pleader.

127. If in the course of any trial before a Presidency Magistrate, it appears that the case is one which he has not jurisdiction to try, or one which, in his opinion, ought to be tried by the High Court, he shall stop further proceedings under this chapter, and shall either forward the case to the Magistrate having jurisdiction, or commit the accused person, in accordance with the provisions of chapter VIII, to the High Court for trial.

Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.

128. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Presidency Magistrate considers him an habitual offender, be committed to the High Court.

Trial of persons previously convicted of offences against coinage, stamp law or property.

General Provisions as to Inquiries and Trials.

129. A Presidency Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person other than the Advocate-General, Standing Counsel, Government Solicitor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

Permission to conduct prosecution.

Any person conducting the case may do so personally or by an advocate, attorney or pleader.

130. Every person accused before a Presidency Magistrate of an offence, may of right be defended by any advocate, attorney or pleader.

Right of accused to be defended.

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

Procedure where accused does not understand proceedings.

132. The place in which the Court of a Presidency Magistrate is held for the purpose of inquiring into or trying any offence, shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Presidency Magistrates' Courts to be open.

Provided that the Magistrate may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be, or remain in, the room or building used by the Magistrate.

133. In the case of offences which may lawfully be compounded, the injured person may compound the offence out of Court, or in Court with the permission of the Presidency Magistrate. Such composition shall have the effect of an acquittal of the accused.

Compounding offences.

CHAPTER XI.—OF EVIDENCE.

A.—Of securing the Attendance of Witnesses.

134. Any Presidency Magistrate may, at any stage of any proceeding, inquiry or trial under this Act, summon, in manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness; and the Magistrate shall summon and examine such person if his evidence appears essential to the just decision of the case.

Power to summon material witness or examine person present.

135. If a Presidency Magistrate has reason to believe that any witness, whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

When warrant of arrest may issue in first instance.

136. If any person summoned under this Act to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Presidency Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand to bring such person before him to testify as aforesaid.

Arrest of person disobeying summons.

137. If such warrant cannot be executed, and the Magistrate has reason to believe that the witness absconds or conceals himself for the purpose of preventing the execution thereof, he may issue a notice, requiring the attendance of such witness to give evidence at a time and place to be named therein, and such notice shall be affixed to some conspicuous part of such witness' ordinary place of abode, or, if he has no such abode, of the Magistrate's Court.

Procedure when warrant cannot be served.

If the witness does not attend at the time and place so named, the Magistrate may order the attachment of any moveable property belonging to such witness, equal in value, as nearly as may be, to the amount of the costs of attachment and of any fine to which the witness may be liable under the provisions of section 172 of the Indian Penal Code.

138. The provisions of section 68 and section 69 as to the attachment, sale and restoration of moveable property shall apply to all property ordered to be attached under section 137.

Attachment, &c., of property ordered to be attached under section 137.

139. Notwithstanding anything contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

Power to order prisoner in jail to be brought up for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

140. The Presidency Magistrate may require complainants and witnesses for the prosecution and defence whose attendance before him is necessary, to execute recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon to prosecute or give evidence, as the case may be.

Power to require complainants, &c., to execute recognizances.

141. If any witness summoned or brought before a Presidency Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 205 or 206.

Committal of person refusing to answer.

B.—Of Witnesses.

142. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, it shall ordinarily be the duty of the complainant and accused to produce their own witnesses. But the Presidency Magistrate may in his discretion—

In cases triable upon summons.

(*a*) summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused;

(*b*) summon any witness named by the complainant or the accused:

Provided that the Magistrate may, before summoning a witness, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

143. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before him such of them as he thinks necessary.

In cases triable upon warrant.

The Magistrate shall also summon any witness, and take any evidence that may be offered, in behalf of the accused person, to answer or disprove the evidence against him.

C.—Of Securing Documentary Evidence.

144. Whenever a Presidency Magistrate considers that the production of any document or other thing is necessary or desirable for the purposes of any inquiry, trial, or other proceeding under this Act, he may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it at the time and place stated in the summons.

Summons to produce document required as evidence.

145. Where there is reason to believe that the person to whom the summons is addressed will not produce the document or

Issue of search-warrant in first instance.

other thing as directed in the summons, the Magistrate may issue a warrant to search for such document or thing in the first instance.

Procedure as to letters in custody of Postal Department or telegraph officer.

146. If any letter in the custody of the Postal Department is wanted for the purpose of any inquiry or trial by a Presidency Magistrate, the Magistrate may, if he is the Chief Magistrate, direct the postal authorities to deliver such letter to such person as the Magistrate directs, and if he is not the Chief Magistrate, may apply to the Chief Magistrate, who may, if he thinks fit, give such direction.

The letter referred to in any direction given under this section shall be delivered accordingly.

Power to impound document produced.

147. Any Presidency Magistrate may, if he thinks fit, impound any document or other thing produced before him, or may, at the conclusion of the proceedings, order it to be returned to the person who produced it.

D.—Of the Examination of Accused Persons.

Examination of accused.

148. At any stage of any inquiry or trial under this Act, the Magistrate may, without previously warning the accused person, put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not only in such inquiry or trial, but also in any other inquiry into, or trial for, any other offence which such answer may tend to show he has committed.

No influence to be used to induce disclosures.

149. Except as is provided in section 150, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Tender of pardon to accomplice.

150. A Presidency Magistrate may, with the view of obtaining the evidence of any persons supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances, within his knowledge, relative to such offence and to every other person concerned in the perpetration thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial.

Commitment of person to whom pardon has been tendered.

151. When a pardon has been tendered under section 150, if before the trial it appears to the Presidency Magistrate that any person who has accepted such tender has either by wilfully concealing anything essential, or by giving false evidence, not complied with the conditions under which the tender was made, such Magistrate may commit him for trial for the offence in respect of which the pardon was so tendered, or for any other offence of which he may appear to have been guilty in connection with the same matter.

The statement made by a person under pardon which pardon has been withdrawn under this section, may be put in evidence against him.

E.—Special Rules of Evidence.

Deposition of medical witness.

152. The deposition of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any inquiry or trial under this Act, although the deponent is not called as a witness.

Power to summon medical witness.

The Presidency Magistrate may, if he thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Report of Chemical Examiner.

153. Any document purporting to be a report from the Chemical Examiner, or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any inquiry or trial under this Act, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any inquiry or trial under this Act.

Genuineness of signature may be presumed.

The Presidency Magistrate may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Power to summon Chemical Examiner.

The Presidency Magistrate may, if he thinks fit, summon and examine such Chemical Examiner or Assistant Chemical Examiner as to the subject-matter of his said report.

Previous conviction or acquittal how proved.

154. A previous conviction or acquittal may be proved (*a*) by an extract certified, under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the sentence or order, or (*b*), in case of a conviction either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted or by production of the warrant of commitment under which the punishment was suffered.

Record of evidence in absence of accused.

155. If an accused person abscond, and after due pursuit cannot be arrested, the Presidency Magistrate may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions; and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged, if the attendance of the deponent cannot be procured.

Convictions on evidence partly recorded by one Magistrate and partly by another.

156. Whenever any Presidency Magistrate, after having heard the whole or any part of the evidence in an inquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and re-commence the inquiry or trial:

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses be re-summoned and reheard, in which case the inquiry or trial shall be re-commenced:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new inquiry or trial.

When attendance of witness may be dispensed with.

157. Whenever in the course of a trial or inquiry under this Act it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Presidency Magistrate may dispense with such attendance.

Issue of commission and procedure thereunder.

158. Such Magistrate may direct a commission to any Magistrate of the District, or Magistrate of the first class, within the local limits of whose jurisdiction such witness may be.

The Magistrate to whom the commission is directed, or, if he be the Magistrate of the District, such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where such witness is, or shall summon such witness before himself, and shall take his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure.

Commission in case of witness being within Presidency town.

If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, other than the Magistrate dispensing with his attendance, the latter Magistrate may direct a commission to the former Magistrate, who thereupon shall have the like power to compel the attendance of, and to examine, such witness as he possesses for that purpose in cases pending before himself.

Complainant and accused may examine witness.

The complainant and the accused person may respectively forward interrogatories, in writing, upon which the Magistrate to whom the commission is directed shall examine the witness,

or the complainant and the accused person (if on bail) may appear before such Magistrate,

or the complainant and the accused person may so appear respectively by advocate, attorney or pleader,

and may examine, cross-examine and re-examine (as the case may be) the said witness.

Return of commission.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Magistrate by whom it was issued; and the commission, the return thereto, and the deposition of such witness, may be used as evidence in the case and shall form part of the record.

F.—Of Search-Warrants.

Search-warrant when grantable.

159. When a Presidency Magistrate considers that the production of any thing is essential to the conduct of an inquiry into an offence known or suspected to have been committed or to the discovery of the offender,

or when he considers that such inquiry or discovery will be furthered by a general search or inspection,

he may grant his search-warrant; and the officer charged with the execution of such warant may search or inspect any place within the local limits of the jurisdiction of such Magistrate.

The Magistrate may, if he thinks fit, specify in the warrant the particular place, building or part thereof to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place, building or part so specified.

Nothing in this section or in section 145 shall authorize a Magistrate to grant a warrant to search for a letter or telegram in the custody of the Postal Department or of a telegraph officer.

Search of house suspected to contain stolen property or forged documents.

160. If a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin, or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, and by force if necessary, such place, and

(*b*) to search the same as specified in the warrant, and

(*c*) to take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, stamps, seals, coins, instruments or materials before a Presidency Magistrate, or to guard the same on the spot until the offender is taken before a Presidency Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

Direction, &c., of search-warrants.

161. The provisions of sections 59, 60 and 61 shall apply to all search-warrants issued under this chapter.

162. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search.

163. A Police-officer or other person, authorized by a warrant to search any place, may break open any outer or inner door or window of such place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Place to be searched may be broken open.

164. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall, unless a warrant of arrest has been issued against her, give her notice that she is at liberty to withdraw.

Search of zanáná.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of making the search, using at the same time every precaution consistent with this section for preventing the clandestine removal of the thing mentioned in the warrant.

165. Before making a search under this chapter the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

Search to be made in presence of witnesses.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless especially summoned by him.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

Occupant of place searched may attend.

166. Whenever it is necessary to cause a woman to be searched, the search shall be made with strict regard to the customs of the country.

Mode of searching women.

CHAPTER XII.—OF APPEALS.

167. Any person convicted on a trial held by a Presidency Magistrate, may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months, or to fine exceeding two hundred rupees:

Appeal by person convicted.

Provided that, where an accused person has been convicted on his own plea, no such appeal shall lie except as to the extent or legality of the sentence.

Sentences passed under section 13 on the same occasion shall, for the purposes of this section, be considered as one sentence.

For the purposes of the Indian Limitation Act, 1871, all appeals under this section and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

168. The Local Government may direct the Public Prosecutor or other officer specially or generally appointed in this behalf to present an appeal to the High Court from a Presidency Magistrate's order of acquittal or of dismissal, or of discharge; but in no other case shall there be an appeal by the prosecution from any order under this Act.

Appeal by Government from order of acquittal.

No appeal shall be presented under this section after two months from the date of the order complained of.

When an appeal is presented under this section, the High Court may order the accused person to be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or (if the offence of which he is accused be bailable) admit him to bail.

The High Court may, in any case so appealed, direct a new trial by any Presidency Magistrate, or may pass such order as may be warranted by law.

169. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copy of order to accompany petition.

170. If any person affected by an order passed under this Act desires to have a copy of such order or of any deposition or other part of the record, he shall, on applying for such copy, be furnished therewith; provided that he pay for the same, unless the Magistrate, for some special reason, thinks fit to furnish it free of cost.

Copies of proceedings.

171. If the appellant be in jail, he shall be at liberty to present his petition of appeal, and the copy of the order appealed against, to the officer in charge of the jail, who shall thereupon forward such petition and copy to the High Court.

Procedure when appellant in jail.

172. On receiving the petition of appeal and the copy of the order appealed against, the High Court shall peruse the same, and may fix a reasonable time for hearing the appellant or his advocate or pleader, or if he be present may hear him at once.

Procedure on receiving petition of appeal.

The High Court may, if it considers that there is no sufficient ground for altering or revising the order appealed against, reject the appeal summarily.

Power to reject appeal summarily.

Before rejecting an appeal under this section, the High Court may call for the record of the case, but shall not be bound to do so.

Power to call for record.

In rejecting under this section an appeal by a person convicted, the High Court shall not enhance the sentence.

Sentence not to be enhanced when appeal rejected under this section.

173. If the High Court does not reject the appeal summarily, it shall cause notice to be given to the appellant and the Public Prosecutor, Government Solicitor, or other officer

Notice of day for hearing appeal.

empowered by Government in that behalf, of the day on which such appeal will be heard,

and in case of appeals under section 168, the High Court shall also cause a like notice to be given to the respondent.

All such notices shall be served in manner provided by this Act for serving a summons unless in the case of persons present in Court, to whom they may be given orally.

Service of notice.

174. The High Court shall send for the record of the case, and after perusing the same, and hearing the appellant or his advocate or pleader, if he appears, and the Government Solicitor or other officer empowered by Government in this behalf, if he appears, may—

High Court may alter or reverse finding and sentence, or enhance sentence.

(*a*) alter or reverse the order of such Court, or

(*b*) enhance any punishment which has been awarded, but not so as to inflict a greater punishment for the offence which, in the opinion of the High Court, he has committed, than the Presidency Magistrate could have inflicted for such offence, or

(*c*) order the appellant to be re-tried before any Presidency Magistrate or before the High Court, or

(*d*) if it considers that there is no sufficient ground for interfering with the sentence or order appealed against, reject the appeal.

175. Pending any appeal under section 167, the High Court may direct that the execution of the order appealed against be suspended, and, if the appellant be in confinement for a bailable offence, may order that he be released on bail.

Suspension of sentence pending appeal.

Release of appellant on bail.

Where the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in calculating the term of his imprisonment.

176. In dealing with any appeal under this chapter, the High Court, if it thinks additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may either take such evidence itself, or may direct it to be taken by a Presidency Magistrate.

High Court may make or direct further inquiry.

When the additional evidence is taken by the Presidency Magistrate, he shall certify such evidence to the High Court, and the High Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the accused person or his advocate, attorney or pleader, shall be present when the additional evidence is taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined before a Magistrate under this section.

177. No order passed by a Presidency Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the accused person in his defence.

Order when reversible by reason of error or defect in charge or proceedings.

178. No irregularity in the proceedings prior to the commencement of the trial is a sufficient ground for reversing or altering any order passed in a trial properly held.

Irregularity before trial properly held.

179. When a Presidency Magistrate has passed an order inflicting punishment on any person for an offence not triable by such Magistrate, the High Court shall cancel the order, and either try the case itself or direct it to be tried by a Court of competent jurisdiction.

Procedure in case of conviction by Magistrate not having jurisdiction.

180. No appeal shall lie from any order of a Presidency Magistrate, except in the cases provided for by this Act or by any other law for the time being in force

Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.

Illustrations.

(*a*.) There is no appeal against an order refusing to grant compensation, in case of a groundless complaint.

(*b*.) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*c*.) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*d*.) There is no appeal against an order of maintenance.

181. Whenever an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the applicant shall give to the Public Prosecutor, Government Solicitor, or such other officer as the Local Government appoints in this behalf, notice in writing of the application, together with a copy of the grounds on which it is to be made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Notice to Public Prosecutor of intention to apply under Act X of 1875, s. 147.

182. When the decision of any Presidency Magistrate is called in question in the High Court, the Magistrate may submit with the record of the case a statement setting forth the grounds of his decision and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

CHAPTER XIII.—OF EXECUTION.

183. In cases tried by a Presidency Magistrate, the Magistrate passing any order inflicting imprisonment or whipping shall forward the accused person with a warrant for the execution of the sentence to the officer in charge of the jail of the Presidency town in which the trial was held,

Court to send accused with warrant for execution of sentence to officer in charge of jail.

or where there are more such jails than one, to the officer in charge of such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, the nature of the punishment to which he has been sentenced, and if he has been sentenced to imprisonment, the term for which he is to be imprisoned.

184. Every such warrant shall be in writing under the hand of the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (G) given in the third schedule to this Act or to the like effect.

Form and direction of warrant of commitment.

185. Whenever a Presidency Magistrate imposes a fine under this or any other Act for the time being in force, he may issue a warrant for the levy of the amount of the fine by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Levy of fine.

Such warrant may be executed within the local limits of such Magistrate's jurisdiction, and it shall authorize the distress and sale of any such property without such limits when endorsed by the Magistrate of the District in which it is found.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Section to what cases applicable.

When a warrant is issued under this section, the Presidency Magistrate may order the offender to be imprisoned until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, as the Magistrate thinks fit, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance. But if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the local limits of his jurisdiction whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant.

Detention of offender until return made to distress-warrant.

No distress made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto.

Distress not illegal, nor distrainer a trespasser, for defect of form in proceedings.

The said warrant may be issued either by the Magistrate who imposes the fine, or by his successor in office.

Who may issue distress-warrant.

186. Whenever a Presidency Magistrate imposes a fine under any law in force for the time being, he may order the whole or any part of the fine to be paid in compensation—

Payment of fine in compensation.

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the injury complained of, where such injury can, in the opinion of such Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be imposed in a case which is subject to appeal, no such payment shall be made until the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, until after the decision of the appeal.

At the time of awarding damages in any subsequent civil suit relating to the same matter, the Court shall take into consideration any sum which may have been paid under this section.

187. When the punishment of whipping is imposed, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Whipping, if imposed in addition to imprisonment in appealable case, when to be inflicted.

188. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

Mode of inflicting punishment of whipping.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall such punishment exceed thirty stripes.

The punishment of whipping shall be inflicted in the presence of the officer in charge of the jail: provided that, in the case of a person under sixteen years of age, the Magistrate may order it to be inflicted in his own presence.

189. The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer or Magistrate present, that the offender is in a fit state of health to undergo such punishment.

Punishment not to be inflicted if offender not in fit state of health.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer or Magistrate present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Stay of execution.

Not to be executed by instalments.

190. No sentence of whipping shall be executed by instalments.

191. In any case in which, under section 189, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his descretion, either remit such sentence, or sentence the offender, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to

Procedure if punishment be prevented under section 189.

imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to inflict.

192. When sentence is passed under this Act on an escaped convict, such sentence, if of fine or whipping, shall take effect immediately, and, if of imprisonment, shall take effect after he has undergone the portion of his former sentence which remained unexpired at the time of his escape.

Currency of sentence on escaped convicts.

193. When a person already under sentence of imprisonment or transportation is sentenced under this Act to imprisonment, such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced.

Commencement of sentence on offender already sentenced for other offence.

PART III.

CHAPTER XIV.—OF LUNATICS.

194. When any person accused before a Presidency Magistrate of an offence appears to such Magistrate to be of unsound mind and incapable of making his defence, the Magistrate shall enquire into the fact of such unsoundness, and shall cause the accused person to be examined by such medical officer as the Local Government directs, and thereupon shall examine such officer as a witness, and shall reduce the examination into writing.

Procedure when accused is a lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

195. When, from the evidence given before a Presidency Magistrate, there appears to be sufficient ground for believing that an accused person committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of such act or that he was doing what was contrary to law, the Presidency Magistrate shall, if such accused person appears to be of sound mind at the time of the inquiry or trial, proceed with the case.

When accused appears to have been insane.

196. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Presidency Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient bail being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or such officer as the Magistrate appoints in this behalf.

Release of lunatic on bail.

If the offence be non-bailable, or if sufficient bail be not given, the Magistrate shall report the case for the order of the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

Custody when bail not given.

197. Whenever proceedings are staved under section 194, the Presidency Magistrate may at any time resume the inquiry or trial, and require the accused person to appear or to be brought before him.

Resumption of inquiry or trial.

When the accused person has been released under section 196, and the sureties for his appearance produce him to the officer whom the Magistrate appoints in this behalf, the certificate of such officer that the accused person is capable of making his defence shall be receivable as evidence.

198. If, when the accused person appears or is again brought before the Magistrate, such Magistrate considers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate.

If the Magistrate considers the accused person to be still incapable of making his defence, the Magistrate shall again act according to section 194.

199. Whenever any person is acquitted by a Presidency Magistrate upon the ground that, at the time at which such person is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence complained of, or that he was doing what was contrary to law, the order of acquittal shall state specially whether he committed the act or not.

Finding in case of acquittal on ground of being lunatic.

200. Whenever such order states that the accused person committed the act alleged, the Presidency Magistrate before whom the trial was held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody, in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Procedure when lunatic committed the act alleged.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

201. When any person is confined under the provisions of section 196 or 200, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

202. If such person is confined under section 196, and such Inspector General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Presidency Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 198; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

203. If such person is confined under the provisions of section 200, and such Inspector General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 200 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as it thinks fit.

204. Whenever any relative or friend of any person detained under the provisions of section 200 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person so detained shall be properly taken care of and shall be prevented from doing injury to himself or another, may order such person to be delivered to such relative or friend.

Delivery of lunatic to care of relative.

Whenever such person is so delivered over, it shall be upon condition that he shall be produced for the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 201 and 203 shall, *mutatis mutandis*, apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XV.—OF CONTEMPTS OF COURT.

205. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of a Presidency Magistrate, he may cause the offender to be detained in custody; and, at any time before the Magistrate leaves his Court on the same day, he may take cognizance of the offence, and sentence the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

In every such case, the Magistrate shall record the acts constituting the offence, with the statement (if any) made by the offender as well as the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Magistrate interrupted or insulted was sitting, and the nature of the insult or interruption.

206. If the Presidency Magistrate considers that a person accused of any of the offences referred to in section 205 should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate, after recording the facts constituting the offence and the statement of the accused person shall forward the case to another Presidency Magistrate, and shall require bail to be given for the appearance of such accused person before such other Magistrate, or, if sufficient bail be not given, shall forward such person under custody to such Magistrate.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Presidency Magistrate; and may sentence the offender to punishment, as provided in the section under which he is charged.

207. When any Presidency Magistrate has sentenced an offender to punishment, or forwarded him to another Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

Discharge of offender on submission or apology.

CHAPTER XVI.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.

208. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Presidency Magistrate,

Personal recognizance to keep the peace in cases of conviction.

and such Magistrate is of opinion that it is necessary to require such person to execute a personal recognizance for keeping the peace,

he may, in addition to any other order passed in the case, order the person so convicted to execute a personal recognizance for keeping the peace during such period as the Magistrate thinks fit to fix, not exceeding one year.

209. Whenever a Presidency Magistrate is of opinion that it is necessary to require sureties for keeping the peace, in addition to the personal recognizance of the person so convicted, such Magistrate may require him to give such sureties, and may fix the penalties which the sureties shall be respectively bound to discharge, and may direct that, if such bail be not given, he shall be imprisoned for such term not exceeding one year as the Magistrate thinks fit.

Sureties for keeping the peace.

210. If the person so convicted be sentenced to imprisonment, the period so fixed, and the term of imprisonment in default of executing the recognizance, shall commence on the expiration of his sentence.

Commencement of period during which person may be bound to keep peace.

Where the order to execute such recognizance is not made at the time of signing, or by the Magistrate who signs the judgment, the person so convicted must be produced before the Magistrate making such order.

211. Whenever it appears to a Presidency Magistrate that it is necessary for the preservation of the peace that the term for

Extension of time for which person is bound.

which any person is so bound should be extended, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend such term for a further period not exceeding one year from the expiration of the first year.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 215.

B.—Security for Good Behaviour.

212. Whenever it is proved before a Presidency Magistrate that any person is lurking within the local limits of his jurisdiction, or that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such person to enter into such recognizance, with sureties, for his good behaviour for a period not exceeding six months, as the Magistrate thinks sufficient.

When Magistrate may require security for good behaviour for six months.

213. Whenever it is proved before a Presidency Magistrate that any person is by repute

When Magistrate may require security for good behaviour for one year.

a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood,

or of a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

214. Whenever it is proved before a Presidency Magistrate that any person is

Procedure where security required for more than one year.

an habitual robber, house-breaker or thief,

or an habitual receiver of stolen property, knowing the same to have been stolen,

or of a dangerous character,

and that his release without security, at the expiration of the limited period of one year, would be hazardous to the community,

the Magistrate shall record his opinion to that effect, and make an order requiring similar security for the good behaviour of such person for a period not exceeding three years.

If such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

C.—Provisions as to both Kinds of Security.

215. Whenever a Presidency Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, or that he is one of the persons referred to in sections 212, 213 and 214, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to execute a recognizance to keep the peace or for good behaviour, as the case may be.

Summons to person to show cause why he should not give bond to keep peace or for good behaviour.

EXPLANATION I.—A summons calling on a person to show cause why he should not execute such recognizance, may be issued on any report or other information which the Magistrate believes; but the Magistrate shall not require any person to execute such recognizance until the Magistrate has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may, if he thinks fit, recall any summons issued under this section.

216. Such summons shall set forth the substance of the report or information on which it is issued, the penalty to be specified in the recognizance, and the term for which it is to be in force, and, if bail are to be taken, their number, the penalties which they shall be respectively bound to discharge, and the time and place at which the person summoned is required to attend.

Contents of summons.

When the person believed to be likely to commit a breach of the peace or to be one of the persons referred to in sections 212, 213 and 214, is present in Court, no summons is necessary, but the Magistrate may at once require him to show cause why he should not be required to execute the recognizance.

217. If the person summoned does not attend on the day appointed at the hour and place named in the summons, the Presidency Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

When warrant of arrest may issue.

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded by the Magistrate on the warrant), that there is reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, or that there is reason to think that any person is one of the persons so referred to, the Magistrate may at any time issue a warrant for his arrest.

218. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 215, and may permit him to appear and execute the required recognizance, or show cause against such requisition, by an advocate, attorney or pleader.

Magistrate may dispense with personal attendance of person informed against.

219. If on the appearance of the person so informed against or, if his attendance is dispensed with, of his advocate, attorney or pleader, the Magistrate is not satisfied that there is occasion to bind over such person to keep the peace, or to be of good behaviour, the Magistrate shall direct his discharge.

Discharge of person informed against.

220. If the Magistrate is satisfied that it is necessary for the preservation of the peace or the maintenance of good behaviour that such person shall execute a recognizance, the Magistrate shall make an order accordingly.

Order to give bond and consequence of non-compliance.

The penalty specified in every recognizance executed under this chapter shall be fixed with due regard to the circumstances of the case and the means of the person bound.

The penalty which the sureties shall be jointly and severally bound to discharge shall not exceed the penalty which the principal debtor is bound to discharge.

221. If a person required to furnish security under section 214 does not furnish the same, or offers sureties whom the Magistrate rejects, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Proceedings to be laid before High Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass such orders on the case as it thinks fit, provided that the period (if any) for which it may direct the security to be taken shall not exceed three years.

222. Whenever security is required under this chapter, the amount of the security, the number and description of sureties, and the period of time for which the recognizance is to remain in force, shall be stated in the order, and the recognizance shall be in the form (H) or (I), as the case may be, given in the third schedule hereto annexed or to the like effect.

Contents of order for security.

Form of recognizance.

223. In the event of any person required to give security under the provisions of this chapter failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Imprisonment in default of security.

Term of imprisonment.

Imprisonment under this section may be rigorous or simple, as the High Court or Magistrate in each case directs.

224. If any person required under this chapter to enter into a recognizance is under sentence of imprisonment, he shall, on or after the expiration of his sentence, be brought up before the Magistrate for the purpose of entering into such recognizance.

Binding of sentenced person.

225. A Presidency Magistrate may at any time release any person imprisoned for failing to furnish security for good behaviour, whether by his own order or that of his predecessor in office, provided that the Magistrate is of opinion that such person may be released without hazard to the community.

Release of prisoners under requisition of security.

Whenever a Presidency Magistrate is of opinion that any person imprisoned for failing to furnish security for good behaviour, as ordered by the High Court, may be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Release of prisoner under requisition of security by order of High Court.

226. A surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate to discharge his recognizance.

Discharge of sureties.

On such application being made, the Magistrate shall issue his summons or warrant requiring the person for whom such surety is bound to appear or be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall discharge the recognizance of the surety, and shall order such person to give a fresh surety.

227. The commission, or attempt to commit, or the abetment of, any offence whatever, and wherever it may be committed, is a breach of the recognizance.

Commission, &c., of offence, a breach.

228. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter has been forfeited, he shall record the grounds of such proof, and call upon the person bound by such recognizance to pay the penalty thereof, or to show cause why it should not be paid.

Recovery of penalty from principal.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any moveable property belonging to the person bound by such recognizance.

Such warrant may be executed within the local limits of the jurisdiction of the Magistrate who issued it; and it shall authorize the distress and sale of any moveable property belonging to the person so bound without such limits, when endorsed by the Magistrate of the District in which such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable to imprisonment by order of the Presidency Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person so bound has had an opportunity of showing cause against the enforcement, and until the breach of the condition of the recognizance has been proved.

229. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter by a surety has been forfeited, the Magistrate may give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

Recovery of penalty from surety.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover the penalty from such surety in manner provided by the last preceding section.

And in case such penalty cannot be so recovered, the Magistrate may sentence the surety to imprisonment in the civil jail for a period not exceeding six months.

230. Any previous conviction of the person to be bound may, in proceedings under this chapter, be proved in the manner prescribed in section 154.

Proof of previous conviction.

231. Proceedings under this chapter may be taken in any district in which the breach of the peace is apprehended, or in which an offence has been committed in breach of the bond, or in which the person whom it is desired to bind may be.

Where proceedings under this chapter may be taken.

232. The provisions of this chapter relating to security for good behaviour do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

Provisions of chapter not applying to European vagrants.

CHAPTER XVII.—OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

233. Whenever any person is convicted by a Presidency Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

Power to restore possession of immoveable property.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XVIII.—OF THE MAINTENANCE OF WIVES AND FAMILIES.

234. If any person, having sufficient means, neglects or refuses to maintain his wife, or his legitimate or illegitimate child unable to maintain itself, a Presidency Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his said wife, or child, or both, at such monthly rate not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Order for maintenance of wives and children.

Such allowance shall be payable from the date of the order.

If any person so ordered wilfully neglects to comply with the order, a Presidency Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines; and may sentence such person, for each month's allowance remaining unpaid, to imprisonment for any term not exceeding one month:

Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

Proviso.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

235. On the application of any person receiving, or ordered to pay, a monthly allowance under the provisions of section 234, and on proof of a change in the circumstances of such person, his wife or child, the Magistrate may make such alteration in the allowance ordered as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

Alteration in allowance.

236. A copy of the order of maintenance shall be given without fee to the person in whose favour it is made, or to his guardian (if any); and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

Enforcement of order.

PART IV.

CHAPTER XIX.—MISCELLANEOUS.

237. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Presidency Magistrate's Court.

Procedure in miscellaneous criminal cases and proceedings.

238. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by a Presidency Magistrate, and may be tried according to the provisions of this Act.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

239. The powers conferred on a Presidency Magistrate by section 238 may be exercised whether the offence is stated to have been committed within the local limits of his jurisdiction or not; but such powers shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within such limits.

Extent of jurisdiction.

240. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to jail or release him on bail to appear for judgment when called upon.

Reference to High Court.

241. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said order.

Disposal of case according to decision of High Court.

The High Court may direct by whom the costs of the reference shall be paid.

Direction as to costs.

242. Whenever any person causes a Police-officer to arrest another person, and whenever a complaint of any offence is made before any Presidency Magistrate, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest or for making such complaint, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest or making the complaint, to the person so arrested or complained against, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

Compensation to person groundlessly given in charge or complained against.

In such cases, if more persons than one are arrested or complained against, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine.

243. When the inquiry or trial before any Presidency Magistrate is concluded, he may make such order as he thinks fit for the disposal of any moveable property produced before him regarding which any offence appears to have been committed.

Order for disposal of property regarding which offence committed.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

244. If any property alleged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Presidency Magistrate, or in prosecution of any complaint of an offence in regard to the obtaining thereof, and the person accused of such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted,

Power to order disposal of property connected with charge, in Police-custody.

or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty,

or if any property has been seized by a Police-officer under section 160,

any Presidency Magistrate may make an order for the delivery of such property to the person appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, may make such order with respect to the property as the Magistrate thinks fit:

Provided that no such order shall bar the right of any person to sue the person to whom the property is delivered, and to recover such property from him, so that the suit be instituted within six months next after such order has been made.

245. Subject to any rules that may be made by the Local Government, with the previous sanction of the Governor General in Council, a Presidency Magistrate may order

Expenses of complainants and witnesses.

payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

All persons to give information of certain offences.

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

All persons to assist Magistrate and Police in certain cases.

247. Within such local limits every person is bound to assist a Presidency Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

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

SCHEDULE I.

ACTS REPEALED.

(SEE SECTION 2.)

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and." Sections twenty-two, twenty-three, twenty-six to thirty-one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-five to ninety-eight (both inclusive), one-hundred to one-hundred-and-four (both inclusive), one-hundred-and-six, one-hundred-and-eight to one-hundred-and-eleven (both inclusive). In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath." In section ninety-three, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten, twelve to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive). In section fifty-eight, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive). In section seventy-nine, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

EXPLANATORY NOTES.—*1st.*—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 70 and 71 of this Act.

3rd.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4th.—The last part of the schedule, headed "Offences against other laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

5th.—The direction in column 4 is meant to indicate to Presidency Magistrates the manner in which the discretion vested in them by sections 34 and 35 is commonly to be used.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto -

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto -	Ditto -	Ditto -	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto -	Ditto -	Ditto -	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto -	Ditto -	Ditto -	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed - - -	Ditto -	Ditto -	Ditto -	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

4 K

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant	Not bailable	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto	Ditto	Ditto	Transportation of life or any shorter term, or imprisonment of either description for ten years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection	Ditto	Ditto	Ditto	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto	Ditto	Ditto	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto	Ditto	Bailable	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the re-capture of such prisoner.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor, who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Fine of 500 rupees	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing an unlawful assembly, knowing that it has been commanded to disperse.	Ditto	Ditto	Ditto	Ditto	Ditto.
147	Rioting	Ditto	Ditto	Ditto	Ditto	Ditto.
148	Rioting armed with a deadly weapon	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant..	Warrant -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed - - -	Ditto -	Summons -	Ditto -	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto -	Ditto -	Fine of 1,000 rupees - -	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto -	Ditto -	Ditto -	Fine - - -	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	Or to go armed.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray - - -	Shall not arrest without warrant.	Summons -	Ditto -	Imprisonment of either description for one month, or fine of 100 rupees, or both.	Ditto.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade -	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant - -	May arrest without warrant.	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offence, &c.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto -	Ditto -	Ditto -	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto -	Ditto -	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto -	Ditto -	Ditto -	Death, or as above -	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto -	Ditto -	Ditto -	The same as for the offence -	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto -	Ditto	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto -	Ditto -	Bailable -	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.
200	Using as true any such declaration known to be false.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
209	False claim in a Court of Justice -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years or upwards.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years -	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto -	Dto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant [or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Not bailable	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death - -	May arrest without warrant.	Warrant -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation -	Ditto -	Ditto -	Not bailable -	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons -	Ditto -	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.
229	Personation of a juror or assessor - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant -	Not bailable -	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto -	Ditto -	Ditto -	Transportation for life or imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto -	Ditto -	Ditto -	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant -	Not bailable-	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
	Persons employed in a mint causing coin to be of a different weight or composition from that fixed by law.	Ditto -	Ditto -	Ditto -	Ditto - -	High Court.
245	Unlawfully taking from a mint any coining instrument.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp.	Ditto	Ditto	Bailable	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto.
258	Sale of counterfeit Government stamp	Ditto	Ditto	Ditto	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure	Ditto	Ditto	Ditto	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health	Shall not arrest without warrant.	Ditto	Ditto	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
281	Exhibition of a false light, mark, or buoy	Ditto	Warrant	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto	Ditto	Ditto	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
286	So dealing with any explosive substance	Ditto	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant	Not bailable.	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1. Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant	Not bailable.	Death	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act	Ditto	Ditto	Bailable	Imprisonment of either description for two years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine	High Court.
306	Abetting the commission of suicide	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
308	Attempt to commit culpable homicide	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, and fine.	Magistrate.
311	Being a thug	Ditto	Ditto	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	Concealment of birth by secret disposal of dead body.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
	Of Hurt.					
323	Voluntarily causing hurt - -	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto -	Ditto -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto -	Ditto -	Not bailable -	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto -	Ditto -	Not bailable -	Imprisonment of either description for 10 years and fine.	High Court.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto -	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
	Of wrongful Restraint and wrongful Confinement.					
341	Wrongfully restraining any person	May arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Criminal Force and Assault.					
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour	Ditto	Ditto	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences - -	May arrest without warrant.	Warrant -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft - - - - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto	Ditto -	Ditto -	Ditto - - -	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto -	Ditto -	Not bailable.	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto -	Ditto -	Ditto -	Transportation for life - -	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant -	Not bailable.	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence -	Ditto -	Ditto -	Ditto -	Transportation for life - -	Ditto.

Of Robbery and Dacoity.

392	Robbery - - - -	May arrest without warrant.	Warrant -	Not bailable.	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery - -	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto -	Ditto -	Ditto -	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity - - - -	Ditto -	Ditto -	Ditto -	Ditto - - -	High Court.
396	Murder in dacoity - - -	Ditto -	Ditto -	Ditto -	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
399	Making preparation to commit dacoity -	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto -	Ditto -	Ditto -	Transportation for life, or as above -	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.

PART IV] THE GAZETTE OF INDIA, MARCH 10, 1877. 263

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 Offence.	Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	Ditto	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation	Ditto	Ditto	Ditto	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a land-mark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued*.

Of Mischief—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto	Warrant	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
453	Lurking house-trespass or house-breaking	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.
468	Forgery for the purpose of cheating -	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto -	Ditto -	Ditto -	Punishment for forgery -	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Not bailable	Ditto - - -	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If the document is a valuable security or will.	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto	Summons	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto	Ditto.
489	Removing, destroying, or defacing, any property-mark with intent to cause injury.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the life-time of a husband or wife.	Ditto	Ditto	Bailable	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto	Ditto	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto	Ditto	Bailable	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation	Shall not arrest without warrant.	Warrant	Bailable	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto	Ditto	Ditto	Ditto	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arr without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation - - -	Ditto -	Ditto -	Bailable -	Ditto - - -	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant -	Not bailable	.....	High Court.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto -	Ditto -	Ditto -	.....	High Court or Magistrate.
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons -	Bailable -	.....	Magistrate.
	If punishable with fine only - -	Ditto -	Ditto -	Ditto -	.....	Ditto.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 47).

To *A. B.*, of

Whereas complaint has this day been made before the undersigned Presidency Magistrate for the Town of that you on the day of 187 at (*state shortly the offence complained*) contrary to section of the Indian Penal Code [*or* of Act No. of 18 , *as the case may be*] : You are hereby required to appear in person [*or* by advocate, attorney or pleader, *as the case may be*] on the day of 187 , at o'clock in the forenoon [*or* afternoon] at the Court of before such Magistrate as may then be present, to answer to the said complaint and to be further dealt with according to law.

Dated the day of

(*Signed*) *C. D.*

Presidency Magistrate.

B.

FORM OF WARRANT OF ARREST (*section* 56).

To (*name and designation of the person who is to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*) : You are hereby directed to apprehend the said and produce him at the Court of before such Magistrate as may then be present.

(*Signature.*)

Dated

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*section* 71).

To the officer in charge of the

Whereas of is accused of ( ) you are hereby required to receive the said into your custody and to produce him before by whom [*or* which] the offence of which he is accused is to be tried [*or* enquired into] from time to time when so required.

D.

FORM OF RECOGNIZANCE (*section* 72).

We, *A. B.* of , *C. D.* of and *E. F.* of , do hereby bind ourselves jointly and severally that the said *A. B.* will attend on the day of 187 at the Court of the Presidency Magistrate of and continue so to attend until otherwise directed by the said Magistrate, and will, if required, appear when called upon at the High Court of Judicature at to answer the charge of , and in case of the said *A. B.* making default herein, we the said *A. B.*, *C. D.* and *E. F.* bind ourselves jointly and severally to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signatures.*)

Dated the day of 187 .

E.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY PENDING TRIAL BEFORE THE HIGH COURT (*section* 89).

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*) and has been committed to take his trial before the Court of

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)

(*Office and powers.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*sections* 93, 140).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be,* to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF WARRANT OF COMMITMENT AFTER SENTENCE (*section* 184).

To , the officer in charge of the Jail.

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*), and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*) : You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated day of

H.

FORM OF RECOGNIZANCE TO KEEP THE PEACE (*section* 222).

Whereas I, *A. B.* [*or* we, *A. B.*, *C. D.*, *etc.*], of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself [*or* each of us hereby binds himself] not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my [*or* any of us] making default therein, I bind myself [*or* he binds himself] to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE RECOGNIZANCE OF THE PRINCIPAL.

I, *E. F.* of , hereby declare myself surety for the abovementioned *A. B.*, that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

I.

FORM OF RECOGNIZANCE FOR GOOD BEHAVIOUR (*section* 222).

Whereas I, , inhabitant of , have been called upon to enter into a bond to be of good behaviour to Her Majesty and to all Her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty, and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 97.)

(1).—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

(*b*). That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

On Penal Code, section 121.

(*c*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature of the Magistrate.*]

[*To be substituted for* (*b*).]

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

On section 124.

(3). That you, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

On section 161.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On section 304.

(5.) That you, on or about the day of at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

On section 306.

(6.) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

On section 325.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

On section 392.

(8.) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

On section 395.

(9.) That you, on or about the day of , at , did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

On section 166.

(10.) That you, on or about the day of , at , in the course of the trial of before stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

On section 193.

[*In cases tried by Magistrates, substitute* " within my cognizance " *for* " within the cognizance of

the High Court." *In* (*c*), *omit* "by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a*.) I, [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows:—

On Penal Code, sections 241 and 242.

(*b*.) *First*.—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c*.) And I hereby commit you to the said Court to be tried on the said charges.

[*Signature of the Magistrate.*]

On sections 302 and 304.

For (*b*). *First*.—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

For (*b*). *First*.—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

ALTERNATIVE CHARGES.

Alternative charges on section 193.

For (*b*). That you, on or about the day of at , in the course of the inquiry into before , stated in evidence that " and that you, on or about the day of , at in the course of the trial of before , stated in evidence that " ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

In trials before Magistrates, substitute, "within my cognizance," *for* "within the cognizance of the High Court," *and omit* "by the said Court."

WHITLEY STOKES,
Secretary 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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th February 1877, and is hereby promulgated for general information:—

ACT No. IV OF 1877.

THE PRESIDENCY MAGISTRATES' ACT, 1877.

CONTENTS.

PREAMBLE.

PART I.

CHAPTER I.—PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
2. Repeal of Acts.
3. Saving of powers under local laws.
4. Matters indicated in second schedule.
5. Pending cases.
6. Definitions.

CHAPTER II.—CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

SECTIONS.

7. Establishment of Presidency Magistrates' Courts.
8. Appointment of Presidency Magistrates.
   Presidency Magistrates to be Justices of the Peace.
   Local limits of their jurisdiction.
   Bombay Court of Petty Sessions.
9. Appointment and powers of Chief Magistrate.
10. References in Acts to Magistrates of Police.
11. Sentences which Presidency Magistrates may pass.
12. Imprisonment in default of payment of fine.
    Proviso as to cases decided by Magistrate.
13. Sentence in cases of simultaneous conviction of several offences.
14. Offences under enactments not specifying Court authorized to try.
15. Offence committed in Magistrate's presence.
16. Power to record statements and confessions.
17. Power to compel restoration of abducted females.

PART II.

CHAPTER III.—THE PLACE OF INQUIRY AND TRIAL.

18. Place for inquiry and trial of offence.
19. Accused triable in district where act done, or where consequence ensues.
20. Place for trial where act is offence by reason of relation to other offence.

SECTIONS.

21. Place for inquiry or trial where scene of offence is uncertain ;
or offence not committed in one district only ;
or offence is continuing ;
or consists of several acts in different districts.
Offence committed on journey or voyage.
22. Being a thug, or dacoit.
Escaping from custody.
Criminal misappropriation and criminal breach of trust.
Murder as a thug, dacoity or dacoity with murder.
Stealing cattle.
23. High Court to decide, in case of doubt, district where inquiry shall take place.
24. Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

CHAPTER IV.—OF THE COGNIZANCE OF OFFENCES.

25. When Presidency Magistrate may take cognizance of offences.
26. Who may make complaints.
27. Process to compel appearance.
28. Jurisdiction given by complaint.
29. Complaint or sanction required in certain cases.
30. Magistrate to examine complainant.
31. Effect of omission to examine petitioner.
32. Dismissal of complaint.
33. Issue of process.
34. When summons may issue.
35. Where warrant or summons may issue on complaint.
36. Warrant to arrest, if summons not obeyed.
37. Magistrate may dispense with personal attendance of accused.

CHAPTER V.—OF PROSECUTIONS IN CERTAIN CASES.

38. Prosecutions for offences against the State.
39. Prosecution of Judges and public servants.
Power of Government as to prosecution.
Definitions of 'Government,' 'Judge' and 'Public servant.'
40. Prosecution for contempts of lawful authority of public servants.
41. Sanction to prosecution for certain offences against public justice.
42. Sanction to prosecution for certain offences relating to documents given in evidence.
43. Nature of sanction necessary.
44. Procedure in cases mentioned in section 40, 41 or 42.
45. Prosecution for adultery.
Prosecution for enticing away married woman.
46. Application to be deemed a complaint.

CHAPTER VI.—OF THE SUMMONS AND WARRANT.

SECTIONS.

47. Form of summons.
48. Summons how served.
49. Service when accused cannot be found.
Service on servants of Government and Railway Companies.
50. Service of summons outside Presidency Towns.
51. Proof of service in such cases and when server not present.
52. Provisions applicable to all summonses under Act.
53. Issue of warrant in addition to summons.
54. Summons or warrant for apprehension of person within jurisdiction for offence committed beyond.
55. Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.
56. Form and direction of warrant.
Continuance of warrant.
57. Fees for summonses and warrants.
Power to remit fees.
58. When Magistrate may direct bail to be taken.
Recognizance to be forwarded.
59. Warrant to several persons.
60. Execution of warrant by Police-officer other than the one addressed.
61. Magistrate issuing warrant may superintend its execution.
62. Arrest in presence of Magistrate.
63. Where warrant may be executed.
64. Execution of warrant outside issuing Magistrate's jurisdiction.
65. Procedure on execution of warrant outside issuer's jurisdiction.
66. Magistrate and Police-officer.
67. Proclamation for person absconding.
Proclamation how published.
Evidence of publication.
68. Attachment of property of person absconding.
69. Restoration of forfeited property.

CHAPTER VII.—OF BAIL.

70. Custody of person arrested.
When bail shall be taken.
71. When bail shall not be taken.
When bail may be taken.
Warrant for intermediate custody.
72. Recognizance of accused and sureties.
73. Discharge on bail.
74. Admission to bail after failure in first instance.
75. Power to order sufficient bail when that first taken is insufficient.
76. Discharge of sureties.
77. Procedure to compel payment of penalty by accused.

SECTIONS.

78. Procedure to compel payment of penalty by sureties.
79. In what cases powers given by sections 77 and 78 may be exercised.
Remission of part of penalty.
80. Deposit instead of bail.

CHAPTER VIII.—OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

81. Procedure in preliminary inquiries.
82. Examination of complainant and witnesses for prosecution.
83. Examination to be in presence of accused.
Procedure in inquiries preliminary to commitment.
Accused may examine, cross-examine and re-examine.
84. Examination of accused how recorded.
85. Power of Magistrate to summon and examine any person.
86. Adjournment of inquiry and remand.
87. When accused person to be discharged.
88. When accused to be committed for trial.
89. Framing of charge on which accused is to be tried before High Court.
Form of commitment.
Charge, &c., to be forwarded to High Court.
Commitment when to be notified.
90. Charge to be explained, and copy furnished, to accused.
91. List of witnesses for defence on trial before High Court.
Further list.
Power to summon supplementary witnesses.
92. Summons to witnesses when accused person is to be committed.
93. Recognizances of complainants and witnesses.
Detention in custody in case of refusal to attend or to execute recognizance.

CHAPTER IX.—OF THE CHARGE.

Form of Charges.

94. Charge to state offence.
Specific name of offence, sufficient description.
How stated where offence has no specific name.
What implied in charges.
Language of charge.
Previous conviction when to be set out.
95. Particulars as to time, place and person.
96. When manner of committing offence must be stated.
97. Forms in schedule.
98. Effect of errors.
99. Prisoner may apply for amendment.
100. Magistrate may alter charge.

SECTIONS.

101. When trial may proceed immediately after alteration.
102. When new trial may be directed or trial suspended.
Adjournment.
103. Recall of witnesses when charge altered.
104. Stay of proceedings if prosecution of offence in altered charge require previous sanction.

Joinder of Charges.

105. Separate charges for distinct offences.
106. More offences than one of same kind may be charged within a year of each other.
107. I.—Trial of more than one offence.
II.—One offence falling within two definitions.
III.—Acts severally constituting more than one offence, but collectively coming within one definition.
108. Where it is doubtful what offence has been committed.
109. When a person is charged with one offence, he can be convicted of another.
110. When offence proved included in offence charged.
111. What persons may be charged jointly.
112. Withdrawal of remaining charges, on conviction on one of several charges.

Previous Acquittals or Convictions.

113. Person once convicted or acquitted not to be tried for same offence.

CHAPTER X.—OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. Cases may be tried summarily.
115. Record of evidence.
116. Charge when dispensed with.
Charge when necessary.
117. Effect on proceedings of defect in complaint or process.
118. Dismissal or adjournment on non-appearance of complainant.
119. Procedure on appearance of parties.
120. Conviction on admission of truth of complaint.
121. Procedure when no such admission is made.
122. Charge when drawn up.
123. Procedure on examining accused.
124. Adjournment.
125. Withdrawal of complaint.
126. Acquittal.
Sentence.
127. Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.
128. Trial of persons previously convicted of offences against coinage, stamp law or property.

General Provisions as to Inquiries and Trials.

SECTIONS.

129. Permission to conduct prosecution.
130. Right of accused to be defended.
131. Procedure where accused does not understand proceedings.
132. Presidency Magistrates' Courts to be open.
133. Compounding offences.

CHAPTER XI.—OF EVIDENCE.

A.—Of securing the Attendance of Witnesses.

134. Power to summon material witness or examine person present.
135. When warrant of arrest may issue in first instance.
136. Arrest of person disobeying summons.
137. Procedure when warrant cannot be served.
138. Attachment, &c., of property ordered to be attached under section 137.
139. Power to order prisoner in jail to be brought up for examination.
140. Power to order complaints, &c., to execute recognizances.
141. Committal of person refusing to answer.

B.—Of Witnesses.

142. In cases triable upon summons.
143. In cases triable upon warrant.

C.—Of securing Documentary Evidence.

144. Summons to produce document required as evidence.
145. Issue of search-warrant in first instance.
146. Procedure as to letters in custody of Postal Department or telegraph officer.
147. Power to impound document produced.

D.—Of the Examination of Accused Persons.

148. Examination of accused.
149. No influence to be used to induce disclosures.
150. Tender of pardon to accomplice.
151. Commitment of person to whom pardon has been tendered.

E.—Special Rules of Evidence.

152. Deposition of medical witness.
Power to summon medical witness.
153. Report of chemical examiner.
Genuineness of signature may be presumed.
Power to summon chemical examiner.
154. Previous conviction or acquittal how proved.
155. Record of evidence in absence of accused.
156. Convictions on evidence partly recorded by one Magistrate and partly by another.
157. When attendance of witness may be dispensed with.
158. Issue of commission and procedure thereunder.
Commission in case of witness being within Presidency town.
Complainant and accused may examine witness.
Return of commission.

F.—Of Search-warrants.

159. Search-warrant when grantable.
160. Search of house suspected to contain stolen property or forged documents.
161. Direction, &c., of search-warrants.
162. Persons in charge of closed place to allow search.
163. Place to be searched may be broken open.
164. Search of zanáná.
165. Search to be made in presence of witnesses.
Occupant of place searched may attend.
166. Mode of searching women.

CHAPTER XII.—OF APPEALS.

167. Appeal by person convicted.
168. Appeal by Government from order of acquittal.
169. Copy of order to accompany petition.
170. Copies of proceedings.
171. Procedure when appellant in jail.
172. Procedure on receiving petition of appeal.
Power to reject appeal summarily.
Power to call for record.
Sentence not to be enhanced when appeal rejected under this section.
173. Notice of day for hearing appeal.
Service of notice.
174. High Court may alter or reverse finding and sentence, or enhance sentence.
175. Suspension of sentence pending appeal.
Release of appellant on bail.
176. High Court may make or direct further inquiry.
177. Order when reversible by reason of error or defect in charge or proceedings.
178. Irregularity before trial properly held.
179. Procedure in case of conviction by Magistrate not having jurisdiction.
180. Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.
181. Notice to Public Prosecutor of intention to apply under Act X of 1875, section 147.
182. Magistrate may state grounds of his decision.

CHAPTER XIII.—OF EXECUTION.

183. Court to send accused, with warrant for execution of sentence, to officer in charge of jail.
184. Form and direction of warrant of commitment.

SECTIONS.

185. Levy of fine.
Section to what cases applicable.
Detention of offender until return made to distress-warrant.
Distress not illegal nor distrainer a trespasser for defect of form in proceedings.
Who may issue distress-warrant.
186. Payment of fine in compensation.
187. Whipping, if imposed in addition to imprisonment, in appealable case, when to be inflicted.
188. Mode of inflicting punishment of whipping.
189. Punishment not to be inflicted if offender not in fit state of health.
Stay of execution.
190. Not to be executed by instalments.
191. Procedure if punishment be prevented under section 189.
192. Currency of sentence on escaped convicts.
193. Commencement of sentence on offender already sentenced for other offence.

PART III.

CHAPTER XIV.—OF LUNATICS.

194. Procedure when accused is a lunatic.
195. When accused appears to have been insane.
196. Release of lunatic on bail.
Custody when bail not given.
197. Resumption of inquiry or trial.
198. Procedure on accused appearing before Magistrate.
199. Finding in case of acquittal on ground of being lunatic.
200. Procedure when lunatic committed the act alleged.
201. Visiting of lunatic prisoners.
202. Procedure where lunatic prisoner reported capable of making defence.
203. Procedure where lunatic confined under section 199 is declared capable of being discharged.
204. Delivery of lunatic to care of relative.

CHAPTER XV.—OF CONTEMPTS OF COURT.

205. Procedure in certain cases of contempt.
206. Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.
207. Discharge of offender on submission or apology.

CHAPTER XVI.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.

SECTIONS.

208. Personal recognizance to keep the peace in cases of conviction.
209. Sureties for keeping the peace.
210. Commencement of period during which person may be bound to keep the peace.
211. Extension of time for which person is bound.

B.—Security for Good Behaviour.

212. When Magistrate may require security for good behaviour for six months.
213. When Magistrate may require security for good behaviour for one year.
214. Procedure where security required for more than one year.

C.—Provisions as to both kinds of Security.

215. Summons to person to show cause why he should not give bond to keep the peace or for good behaviour.
216. Contents of summons.
217. When warrant of arrest may issue.
218. Magistrate may dispense with personal attendance of person informed against.
219. Discharge of person informed against.
220. Order to give bond and consequence of non-compliance.
221. Proceedings to be laid before High Court.
222. Contents of order for security.
Form of recognizance.
223. Imprisonment in default of security.
Term of imprisonment.
224. Binding of sentenced person.
225. Release of prisoner under requisition of security.
Release of prisoner under requisition of security by order of High Court.
226. Discharge of sureties.
227. Commission, &c., of offence a breach.
228. Recovery of penalty from principal.
229. Recovery of penalty from surety.
230. Proof of previous conviction.
231. Where proceedings under this chapter may be taken.
232. Provisions of chapter not applying to European vagrants.

CHAPTER XVII.—OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

233. Power to restore possession of immoveable property.

CHAPTER XVIII.—OF THE MAINTENANCE OF WIVES AND FAMILIES.

SECTIONS.

234. Order for maintenance of wives and children.
Enforcement of order.
Proviso.
235. Alteration in allowance.
236. Enforcement of order.

PART IV.

CHAPTER XIX.—MISCELLANEOUS.

237. Procedure in miscellaneous criminal cases and proceedings.
238. Offences against Railway, Telegraph, Post Office and Arms' Acts.
239. Extent of jurisdiction.
240. Reference to High Court.
241. Disposal of case according to decision of High Court.
Direction as to costs.
242. Compensation to person groundlessly given in charge or complained against.
243. Order for disposal of property regarding which offence committed.
244. Power to order disposal of property connected with charge, in police-custody.
245. Expenses of complainants and witnesses.
246. All persons to give information of certain offences.
247. All persons to assist Magistrate and Police in certain cases.

THE FIRST SCHEDULE—ENACTMENTS REPEALED.

THE SECOND SCHEDULE—TABULAR STATEMENT OF OFFENCES.

THE THIRD SCHEDULE—FORMS.

An Act to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency Towns.

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

Preamble.

PART I.

CHAPTER I.—PRELIMINARY.

1. This Act may be called "The Presidency Magistrates' Act, 1877":

Short title.

Commencement.

And it shall come into force on the first day of April 1877.

2. On and from that day the Acts mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

Repeal of Acts.

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

Saving of powers under local laws.

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

Matters indicated in second schedule.

The cases in which the Police may arrest without warrant or not, in the case of each offence under the Indian Penal Code or any law referred to in section 14,

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

whether the offence is bailable or not,

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

The punishment for each offence under the Indian Penal Code is indicated by the sixth column of the same schedule.

5. Cases pending when this Act comes into force in any of the Courts of Police Magistrates, or in the town of Bombay in the Court of Petty Sessions, shall be dealt with, as far as may be, according to the procedure herein provided.

Pending cases.

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

Definitions.

"writing" includes print, lithography, photography and engraving:

"writing."

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

"bailable offence or case."

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

"non-bailable offence or case."

"chapter" means a chapter of this Act:

"chapter."

"place" includes also house, building and vessel: and

"place."

words which refer to acts done extend also to illegal omissions.

Words referring to acts done.

CHAPTER II.—CONSTITUTION AND POWERS OF THE PRESIDENCY MAGISTRATES' COURTS.

7. The Local Government may, with the sanction of the Governor General in Council,

Establishment of Presidency Magistrates' Courts.

(*a*) constitute within the towns of Calcutta, Madras and Bombay, respectively, so many divisions as the said Government thinks fit,

(*b*) define the extent thereof respectively,

(*c*) from time to time alter the number of such divisions and their respective extents, and

(*d*) establish a Presidency Magistrate's Court for each of such divisions.

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

Appointment of Presidency Magistrates.

Any such person may sit and act as a Magistrate in any of the said Courts, and any two or more of such persons may (subject to rules made under section 9) sit together as a Bench.

All persons appointed under this section shall be called Presidency Magistrates.

Every such person shall, by virtue of his office, be a Justice of the Peace for the town of which he is a Magistrate,

Presidency Magistrates to be Justices of the Peace.

and shall exercise jurisdiction in all places within the local limits of the ordinary original criminal jurisdiction of the High Court, and within the limits of the port of such town and of any navigable river or channel leading thereto as such limits are defined under the law for the time being in force for the regulation of ports and port-dues.

Local limits of jurisdiction.

The area comprised within such local limits shall be deemed to be a district within the meaning of the Code of Criminal Procedure and of this Act.

Every Presidency Magistrate in the town of Bombay shall exercise all powers and jurisdictions which, under any law in force immediately before the passing of this Act, may be exercised by the Court of Petty Sessions, and such Court is hereby abolished.

Bombay Court of Petty Sessions.

9. In each of the said towns the Local Government shall appoint one of the Presidency Magistrates to be Chief Magistrate. Such Magistrate shall exercise in such town all the powers which by any law or rule are required to be exercised by any Senior or Chief Magistrate, and may, with the previous sanction of the Local Government, make rules, consistent with this Act, to regulate

Appointment and powers of Chief Magistrate.

(*a*) the conduct and distribution of business and secure uniformity of practice in the Courts of the Magistrates of the Town:

(*b*) the times and places at which Benches of Magistrates shall sit:

(*c*) the constitution of Benches:

(*d*) the mode of settling differences of opinion which may arise between Magistrates in session.

Notwithstanding the last paragraph of section 8, appeals under the law for the time being regulating the municipality of Bombay shall lie to the Chief Magistrate only.

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

References in Acts to Magistrates of Police.

11. Any Presidency Magistrate may pass the following sentences:—

Sentences which Presidency Magistrates may pass.

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

Fine not exceeding one thousand rupees:

Whipping.

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

EXPLANATION.—A Presidency Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award. But no punishment inflicted under this section shall exceed the punishment provided for the offence by the Indian Penal Code or any special or local law.

12. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Presidency Magistrate shall be guided by the provisions of sections 64 and 65 of the Indian Penal Code in fixing the period of imprisonment in default of payment of the fine

Imprisonment in default of payment of fine.

Provided that, in no case decided by a Presidency Magistrate, where imprisonment has been inflicted as part of the substantive sentence, shall the period of imprisonment inflicted in default of payment of the fine exceed one-fourth of the period of imprisonment which he is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso as to cases decided by Magistrate.

Where a person is sentenced to fine only, the Presidency Magistrate may fix such term of imprisonment in default of payment of fine as is allowed by law, provided the term does not exceed two years.

13. When a person is convicted, at one trial, of two or more offences punishable under the same section or different sections of any law, the Presidency Magistrate may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such law which such Magistrate is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other:

Sentence in cases of simultaneous conviction of several offences.

Provided that the punishment shall not in the aggregate exceed twice the amount of punishment which the Magistrate is, by his ordinary jurisdiction competent to inflict.

14. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by a Presidency Magistrate. But no such Magistrate shall pass any sentence in excess of his powers.

Offences under enactments not specifying Court authorized to try.

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

Offence committed in Magistrate's presence.

16. A Presidency Magistrate may record any confession or other statement made to him at any place within the local limits of his jurisdiction by any person with reference to any offence.

Power to record statements and confessions.

Such confessions shall be recorded in the manner provided by section 84, and such statements shall be recorded in the manner prescribed in section 115, clauses 3, 4 and 5, and such statements and confessions shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried.

No Presidency Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily; and on recording any such confession, he shall make a memorandum at the foot thereof to the following effect:—

"I believe that this confession was voluntarily made. It was read over to the person making it and was admitted by him to be correct."

(Signed) *A. B.*,
Presidency Magistrate.

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

Power to compel restoration of abducted females.

PART II.

CHAPTER III.—THE PLACE OF INQUIRY AND TRIAL.

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

Place for inquiry and trial of offence.

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

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

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

Illustrations.

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

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

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

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

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

Illustrations.

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

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

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

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

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

or offence not committed in one district only;

or offence is continuing;

or consists of several acts in different districts;

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

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

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

where an offence consists of several acts done in different districts,

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

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

or offence is committed on journey or voyage.

22. The offence of being a thug, or of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into and tried wherever the accused person happens to be when the complaint is made.

Being a thug or dacoit. Escaping from custody.

The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried either in the district in which the property which is the subject of the offence was received by the accused person, or in any other district in which the offence was committed.

Criminal misappropriation and criminal breach of trust.

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

Murder as a thug, dacoity or dacoity with murder.

The offence of stealing an animal may be inquired into and tried either in the district in which such animal was stolen, or in any other district through or into which it was conveyed.

Stealing cattle.

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

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

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

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

CHAPTER IV.—OF THE COGNIZANCE OF OFFENCES.

25. A Presidency Magistrate may take cognizance of any offence—

When Presidency Magistrate may take cognizance of offences.

(*a*) upon receiving a complaint by a private person,

(*b*) upon information or report by a Police officer,

(*c*) upon information received under section 246,

(*d*) if committed in his presence,

(*e*) upon application under chapter V.

26. Any person acquainted with the facts of a case may make a complaint.

Who may make complaints.

27. On receipt of a complaint a Presidency Magistrate may, if the person complained of be not already in custody, proceed by summons or warrant to compel his appearance;

Process to compel appearance.

and in the cases mentioned in section 25, clauses (*b*), (*c*), (*d*) and (*e*), the Presidency Magistrate may proceed as if he had received a complaint.

28. A complaint gives jurisdiction to a Presidency Magistrate—

Jurisdiction given by complaint.

(*a*) to inquire into or try (as the case may be) any offence covered by the facts complained of, or disclosed on such inquiry or trial,

(*b*) to try or commit for trial (as the case may be) any person not complained against, but who, at the time when the complaint is made, or subsequently, appears to have committed any offence so disclosed, and

(*c*) to issue process for the arrest or to compel the appearance of such person.

29. Nothing in section 27 or 28 shall be held to authorize a Presidency Magistrate to take cognizance, without complaint, of any offence falling under chapters XIX, XX or XXI of the Indian Penal Code; nor without sanction to receive a complaint, or to take cognizance without complaint of any offence, where such complaint or offence, by any law in force for the time being, may not be received or taken cognizance of without sanction.

Complaint or sanction required in certain cases.

30. Whenever a complaint is made to a Presidency Magistrate, such Magistrate, if he has jurisdiction in the case, shall examine the complainant; and such examination may be on oath or affirmation, or not, as the Magistrate in each case thinks fit:

Magistrate to examine complainant.

Provided that the Magistrate, if he thinks fit, may, before the matter of the complaint is brought before him, require it to be reduced to writing.

31. Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

Effect of omission to examine petitioner.

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

Dismissal of complaint.

The dismissal of a complaint shall not prevent subsequent proceedings against the person complained against.

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

Issue of process.

34. When a complaint is made before a Presidency Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may (subject to the provisions of section 4) issue his summons directed to such person, requiring him to appear to answer the complaint, at a certain time and place, before such Magistrate as may then be there.

When summons may issue.

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

35. When a complaint is made before a Presidency Magistrate having jurisdiction in the case that any person has committed, or is suspected of having committed—

Where warrant or summons may issue on complaint.

(*a*) any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, or

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

such Magistrate may (subject to the provisions of section 4) issue his warrant to arrest such person, or, if the thinks fit, his summons directed to such person, requiring him to appear to answer the complaint at a certain time and place before such Magistrate as may then be there.

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

Warrant to arrest, if summons not obeyed.

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

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

37. Whenever the Magistrate issues a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by his advocate, attorney or pleader.

Magistrate may dispense with personal attendance of accused.

But such Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the accused person, and, if necessary, enforce such attendance by issuing a warrant to arrest him.

CHAPTER V.—OF PROSECUTIONS IN CERTAIN CASES.

38. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section 127, or punishable under section 294A of the same Code, shall not be received by any Presidency Magistrate, unless it be made by order of, or under authority from, the Governor General in Council or the Local Government, or some officer empowered by the Governor General in Council or the Local Government to order or authorize such complaint, or unless it be made by the Advocate General.

Prosecutions for offences against the State.

39. A complaint of an offence of which any Judge or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be received by any Presidency Magistrate, except with the previous sanction or under the direction,

Proscution of Judges and public servants.

(*a*) of the Government, or

(*b*) of some officer empowered in this behalf by the Government, or

(*c*) of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such complaint has not been limited by the Government.

No such Judge or public servant shall, unless with the previous sanction of the Government, be prosecuted for any act purporting to be done by him in the discharge of his duty.

The Government may, in any case or class of cases, prescribe the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial shall be held.

Power of Government as to prosecution.

In this section, the expression "Government" means either the Local Government or the Governor General in Council, and the expressions "Judge" and "public servant" have the meaning assigned to them respectively by the Indian Penal Code.

Definition of "Government," "Judge" and "public servant."

40. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section 175, 178, 179, 180 or 228 of that Code, shall not be received by any Presidency Magistrate, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

Prosecution for contempts of the lawful authority of public servants.

41. A complaint of an offence against public justice, described in section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a civil or criminal Court, shall not be received by any Presidency Magistrate, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences against public justice.

42. A complaint of an offence relating to documents, described in section 463, 471, 475 or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any civil or criminal Court, shall not be received against any party to or witness in such proceedings, by any Presidency Magistrate, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Sanction to prosecution for certain offences relating to documents given in evidence.

43. The sanction referred to in sections 40, 41 and 42 respectively may be expressed in general terms, and need not name the accused person, and may be given at any time. But it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence is alleged to have been committed.

Nature of sanction necessary.

A sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Presidency Magistrate to alter the charge (if any) to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

44. When any civil, criminal or other Court inferior to a High Court is of opinion that there is sufficient ground for inquiring into any complaint mentioned in section 40, 41 or 42, such Court may either itself inquire into and commit the case for trial before the High Court, or may send the case for disposal to any Presidency Magistrate having jurisdiction.

Procedure in cases mentioned in section 40, 41 or 42.

The Court may send the accused person in custody, or take sufficient bail for his appearance, before such Magistrate; and may bind over any person to appear and give evidence in the case.

Nothing in this section shall prevent a Presidency Magistrate from disposing of cases under sections 172, 173, 174 and 175 of the Indian Penal Code where he himself is the public servant concerned.

45. A complaint of an offence under section 497 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the other person (if any) under whose care she was living at the time when the adultery was committed.

Prosecution for adultery.

A complaint of an offence under section 498 of the Indian Penal Code shall be made only by the husband of the woman concerned, or by the person (if any) having the care of her on behalf of her husband at the time when the offence was committed.

Prosecution for enticing away married woman.

46. The application of the public servant or Court to a Presidency Magistrate to inquire into or try any case under this chapter shall be deemed a sufficient complaint.

Application to be deemed a complaint.

CHAPTER VI.—OF THE SUMMONS AND WARRANT.

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

Form of summons.

48. If the accused person can be found, the summons shall be served on him personally, wherever he may be, by delivering or tendering the summons to him.

Summons how served.

Every person to whom a summons is delivered or tendered under this section shall, if required by the person delivering or tendering the same, sign a receipt therefor, or countersign a copy thereof.

49. If the accused person cannot be found, the summons may be served by leaving it for him with some adult male member or servant of his family residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor, or countersign a copy thereof. If there is no such member or servant with whom the summons can be left, the serving officer shall fix it on some conspicuous part of the house in which the accused person ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

Service when accused cannot be found.

When the person summoned is in the service of Government or of any Railway Company, the Magistrate issuing the summons may send it to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served in manner hereinbefore provided.

Service on servants of Government and Railway Companies.

50. When a summons issued by a Presidency Magistrate is to be served at any place outside the local limits of his jurisdiction, he may send the summons in duplicate to the Magistrate of the place where the accused resides or is, to be there served.

Service of summons outside Presidency Towns.

51. When a summons issued by a Presidency Magistrate is served outside such local limits as aforesaid, and also in cases where the person who has served the same is not present at the hearing of the complaint, the service may be proved—

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

(*a*) by a solemn declaration, purporting to be made before a Magistrate, that such summons has been served, and such declaration may be endorsed on the duplicate summons and returned to the Magistrate who issued the summons, or

(*b*) by a copy of the summons purporting to be countersigned by the person to whom it is addressed, or

(*c*) by a receipt under section 48.

52. The provisions relating to a summons, its issue and service, contained in sections 47 to 51 (both inclusive), shall be applicable to every summons issued under this Act.

Provisions applicable to all summonses under Act.

53. A Presidency Magistrate may, notwithstanding the issue of a summons under this chapter, either before the appearance of the accused person as required by such summons, or after he fails so to appear, issue a warrant of arrest against him.

Issue of warrant in addition to summons.

54. A Presidency Magistrate may issue a summons for the attendance, or a warrant for the apprehension, of any person within the local limits of his jurisdiction, in respect of any offence alleged or suspected to have been committed by such person in a different district, or on the high seas, or in a foreign country: provided that if the offence were committed within such local limits, the Magistrate might issue a summons or warrant.

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

55. On the attendance or apprehension of such person, if the Presidency Magistrate has not jurisdiction in the case, he shall either send such person to the Magistrate within the local limits of whose jurisdiction the offence is alleged to have been committed, or if the offence is bailable, take bail for his appearance before such Magistrate.

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

When the Presidency Magistrate cannot satisfy himself as to the Magistrate to whom the person so attending or arrested should be sent, he shall report the case for the orders of the High Court.

56. Every warrant issued by a Presidency Magistrate shall be in writing under his hand, shall be directed to one or more Police-officers, and shall be in the form (B) given in the third schedule to this Act, or to the like effect.

Form and direction of warrant.

A warrant issued under this Act remains in force until it is cancelled by the Magistrate who issued it, or until it is executed.

Continuance of warrant.

57. A fee of eight annas shall be paid for every summons or warrant issued by a Presidency Magistrate, except in the case of a summons to attend and give evidence or to produce documents, in which case there shall be paid a fee of four annas:

Fees for summonses and warrants.

Provided that such Magistrate may in any case remit any such fee, if he is satisfied that the complainant is unable to pay the same, and shall remit it when the complaint is made by a public servant in the execution of his duty.

Power to remit fees.

58. A Presidency Magistrate, in issuing a warrant for the arrest of any person, may in his discretion direct by endorsement on the warrant, that if such person give sufficient bail as therein mentioned for his appearance before the Magistrate on a specified day to answer the complaint, the officer to whom the warrant is directed shall take such bail, and shall release such person from custody.

When Magistrate may direct bail to be taken.

The endorsement shall state (*a*) the number of sureties, (*b*) the amount in which they and the accused person are to be respectively bound, and (*c*) the day on which he is to appear before the Magistrate.

If bail be taken, the officer to whom the warrant is directed shall forward the recognizance to the Presidency Magistrate.

Recognizance to be forwarded.

59. When a warrant is directed to more Police-officers than one, it may be executed by all, or by any one or more, of such officer.

Warrant to several persons.

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

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

61. Any Presidency Magistrate who issues a warrant of arrest may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate issuing warrant may superintend its execution.

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

Arrest in presence of Magistrate.

63. A warrant issued by a Presidency Magistrate shall ordinarily be executed within the local limits of his jurisdiction.

Where warrant may be executed.

But if the person against whom the warrant is issued goes into, or is in, any place outside such limits, the warrant may be executed in such place.

64. A Presidency Magistrate may direct a warrant to be executed outside the local limits of his jurisdiction, either with or without endorsement by a Magistrate within the local limits of whose jurisdiction it is to be executed.

Execution of warrant outside issuing Magistrate's jurisdiction.

Such warrant shall ordinarily be endorsed by the Magistrate within the local limits of whose jurisdiction it is to be executed.

The warrant may be forwarded to such Magistrate for endorsement, either by post or by any Police-officer to whom it is directed.

The Magistrate to whom such warrant is forwarded by post shall endorse his name thereon and cause it to be executed within the local limits of his jurisdiction.

If the warrant is forwarded by a Police-officer to whom it is directed, he may take it either to a Magistrate, or to a Police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

Such Magistrate or Police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall be bound to assist such officer in executing the warrant.

Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or Police-officer within the local limits of whose jurisdiction the warrant is to be executed will prevent such execution, the Police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Magistrate who issued it.

65. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Presidency Magistrate who issued the warrant be within twenty miles, or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section 58, be brought before the Magistrate within the local limits of whose jurisdiction the arrest was made.

Procedure on execution of warrant outside issuer's jurisdiction.

Such Magistrate shall, if the person arrested appears to be the person intended by the Presidency Magistrate, direct his removal in custody to such Magistrate, unless such person is then ready and willing to give the bail (if any) required under section 58, in which case the Magistrate before whom he is so brought shall accept such bail and forward the recognizance to the Presidency Magistrate.

66. Every Magistrate or Police-officer to whom a warrant under this Act is directed for execution shall execute the same, or cause it to be executed.

Magistrate and Police-officer.

67. If a Presidency Magistrate having jurisdiction in the case has reason to believe that any person accused of an offence not coming within section 34 is absconding or concealing himself, so that a warrant issued against him under this Act cannot be executed, such Magistrate may issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days from the date of publishing the proclamation.

Proclamation for person absconding.

Such proclamation shall be published as follows—

Proclamation how published.

(*a*) it shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides;

(*b*) it shall be affixed to some conspicuous part of his ordinary place of abode, or some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly published shall be conclusive evidence of compliance with the requirements of this section.

Evidence of publication.

68. A Presidency Magistrate may order the attachment of any property, moveable or immoveable, belonging to any person believed to be absconding or concealing himself.

Attachment of property of person absconding.

Such order shall authorize the attachment of any property within the local limits of the jurisdiction of the Magistrate making the order; and it shall authorize the attachment of any property without such local limits when endorsed by the Magistrate of the district in which such property is situate.

If the property ordered to be attached be immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and, in all other cases, (*a*) by seizure under the order of the Magistrate having jurisdiction; or (*b*) by the appointment of a manager and receiver; or (*c*) by an order prohibiting the payment of rent to the absent person; or by all or any two of such processes as such Magistrate deems proper.

If the person so believed to be absconding or concealing himself does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months from the date of the attachment, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Magistrate may cause it to be sold whenever he thinks fit.

69. When any person whose property is or has been at the disposal of Government under the last paragraph of section 68 appears or is found within two years from the date of the attachment, and proves to the satisfaction of the Magistrate by whose order the property was attached that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the nett proceeds of the sale, or if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Restoration of forfeited property.

CHAPTER VII.—OF BAIL.

70. Every person arrested under this Act shall be kept in custody until he is discharged by the order of a competent Court, or until he is admitted to bail.

Custody of person arrested.

When any person appears or is brought before a Presidency Magistrate accused of any bailable offence, such person shall be admitted to bail: Provided that, in cases punishable with fine only, or with imprisonment for a term not exceeding six months, or with both, the Magistrate may discharge him on his binding himself by a personal recognizance in such sum of money as the Magistrate thinks sufficient, to appear and attend at the time and place therein mentioned, and to continue so to attend until otherwise directed by the Magistrate.

When bail shall be taken.

71. When any person accused of any non-bailable offence appears or is brought before a Presidency Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail shall not be taken.

If the evidence given in support of the complaint is, in the opinion of the Magistrate, not such as to afford such grounds,

When bail may be taken.

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt,

but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

But if the Magistrate decide not to admit the accused person to bail, he shall commit him to custody by a warrant in the form (C) given in the third schedule hereto annexed, or to the like effect.

Warrant for intermediate custody.

Any Presidency Magistrate may, at any subsequent stage of any proceeding under this Act, cancel the admission under this section of any accused person to bail, and may commit him to custody, or may admit to bail any person who has been committed to custody under this section.

72. When any person accused before a Presidency Magistrate of any offence is admitted to bail, a recognizance, in such sum

Recognizance of accused and sureties.

of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue so to attend until otherwise directed by the Magistrate, and, if required, shall appear when called upon at the High Court, to answer the charge.

It is the duty of the Presidency Magistrate or other officer accepting bail to satisfy himself that every surety entering into such recognizance is a person of whom it may reasonably be presumed that he can, if necessary, satisfy its terms.

Every such recognizance shall be in the form (D) given in the third schedule hereto annexed, or to the like effect.

Discharge on bail.

73. After the recognizance has been entered into, the Presidency Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him; and in case he is in some jail, shall issue a warrant of release to the officer in charge of the jail, and such officer shall thereupon release him.

Admission to bail after failure in first instance.

74. If the accused person cannot find sufficient bail when permitted so to do, he may, if the Presidency Magistrate thinks fit, be admitted to bail upon finding the same at any time afterwards before conviction.

Power to order sufficient bail when that first taken is insufficient.

75. If, through mistake or fraud, insufficient bail have been taken, or if the bail become afterwards insufficient, the Presidency Magistrate may issue his warrant of arrest directing that the accused person be brought before him and may order such person to find sufficient bail, and on his failing so to do may commit him to prison.

Discharge of sureties.

76. The sureties for the attendance and appearance of an accused person admitted to bail may, at any time, apply to a Presidency Magistrate to discharge their recognizance.

On such application being made, the Magistrate shall issue his warrant of arrest, directing that the accused person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizance of the sureties to be discharged, and shall call upon the accused person to find other sufficient sureties, and if he fail to do so, may commit him to prison.

Procedure to compel payment of penalty by accused.

77. Whenever, by reason of default of attendance or appearance of the person bailed, a Presidency Magistrate is of opinion that proceedings should be had to recover the penalty mentioned in the recognizance into which such person has entered, he shall proceed to recover the same, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the local limits of the jurisdiction of such Magistrate.

Such warrant may be executed within such limits, and it shall authorize the distress and sale of any moveable property belonging to the accused person without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

Procedure to compel payment of penalty by sureties.

78. Whenever, by reason of default of attendance or appearance of the person bailed, the Presidency Magistrate is of opinion that proceedings should be had to recover from the sureties the penalty mentioned in the recognizance, he shall give them notice to pay the same, or to show cause why it should not be paid.

If such penalty be not paid, and if no sufficient cause for its non-payment be shown, the Presidency Magistrate shall proceed to recover the penalty from such sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to them, or either of them, which may be found within the local limits of the jurisdiction of such Magistrate. Such warrant may be executed within such limits; and it shall authorize the attachment and sale of any moveable property belonging to the sureties, or either of them, without such limits, when endorsed by the Magistrate within the local limits of whose jurisdiction such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, such sureties shall be liable to confinement, by order of the Presidency Magistrate, in the civil jail, during a period not exceeding six months.

In what cases powers given by sections 77 and 78 may be exercised.

79. The powers given by sections 77 and 78 may be exercised by every Presidency Magistrate in every case in which a recognizance has been given for the appearance of any person, if default is made by the non-appearance of such person before such Magistrate, according to the conditions of the recognizance:

Provided that the Magistrate may, at his discretion, remit any portion of the penalty mentioned in any such recognizance and enforce payment in part only.

Remission of part of penalty.

Deposit instead of bail.

80. When any person is required by a Presidency Magistrate to give bail, such Magistrate may permit him to deposit a sum of money or Government promissory notes to such amount as the Magistrate may fix in lieu of such bail.

CHAPTER VIII.—OF INQUIRY INTO CASES TRIABLE BY THE HIGH COURT.

Procedure in preliminary inquiries.

81. Cases, triable by a High Court in the exercise of its ordinary original criminal jurisdiction, or which, in the opinion of the Presidency Magistrate before whom the accused person is brought, ought to be tried by such Court, shall be inquired into by a Presidency Magistrate; and in such inquiry he shall adopt the following procedure.

Examination of complainant and witnesses for prosecution.

82. When the accused person appears or is brought before the Magistrate, or if his personal attendance is dispensed with, after reasonable notice to his advocate, attorney or pleader, the Magistrate shall, at such time as he thinks fit, take the evidence of the complainant and of such persons as are stated by the complainant to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Such evidence shall be recorded in the manner described in clauses 3, 4 and 5 of section 115.

Examination to be in presence of accused.

83. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or, when his personal attendance is dispensed with, of his advocate, attorney or pleader (if any).

Procedure in inquiries preliminary to commitment.

The Magistrate may, in his discretion, summon or examine any witness offered on behalf of the accused person to answer or disprove the evidence against him.

Examination of accused how recorded.

84. Whenever an accused person is examined in the course of a preliminary inquiry into a case triable by the High Court, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Power of Magistrate to summon and examine any person.

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

Adjournment of inquiry and remand.

86. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to adjourn the inquiry, the Magistrate may, by a written order, from time to time adjourn the inquiry on such terms as he thinks fit and remand the accused person for a reasonable time, not exceeding fifteen days.

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

When accused person to be discharged.

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

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

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

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

When accused to be committed for trial.

88. When evidence has been given before a Presidency Magistrate, which appears to justify him in committing the accused person for trial for an offence triable exclusively by the High Court, or which, in the opinion of the Magistrate, ought to be tried by such Court, the accused person shall be committed for trial accordingly.

Framing of charge on which accused is to be tried before High Court.

89. When the Magistrate determines to commit the accused person for trial before the High Court, he shall, after the evidence has been recorded, frame a charge under his hand, declaring with what offence the accused person is charged, and (subject to the provisions of the High Courts' Criminal Procedure Act, 1875) committing him for trial by such Court on such charge.

All such charges shall be drawn up in accordance with the provisions of chapter IX.

Form of commitment.

Pending such trial, the Magistrate may commit the accused person to custody by warrant in the form (E) given in the third schedule hereto annexed, or to the like effect, or may in case of a bailable offence release him on bail; and the charge, the record of the enquiry, and any weapon or other article necessary to produce in evidence shall be sent to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

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

Commitment when to be notified.

When the accused person is committed for trial before the High Court, the Magistrate shall issue an order to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge.

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

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

List of witnesses for defence on trial before High Court.

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

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

Further list.

The Magistrate may in his discretion allow the accused person to give in any further list of witnesses at a subsequent time.

Power to summon supplementary witnesses.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial. Such examination shall, if possible, be taken in the presence of the accused person.

Nothing in this section shall be deemed to preclude the accused person from giving at any time before his trial before the High Court to the

Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial.

Summons to witnesses when accused person is to be committed.

92. When the person accused has been committed for trial, and has given in any list of the persons referred to in section 91, the Magistrate may either summon such persons to appear before the High Court, or leave them to be summoned by the Clerk of the Crown.

Recognizances of complainants and witnesses.

93. Complainants and witnesses for the prosecution and defence, whose attendance before the High Court is necessary, and who appear before the Presidency Magistrate, shall execute before him recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon at the High Court, to prosecute or to give evidence, as the case may be.

If any complainant or witness refuses to attend before the High Court, or to execute the recognizance above directed, the Presidency Magistrate may detain him in custody until he executes such recognizance, or until his attendance at the High Court is required, when the Magistrate shall send him in custody to the High Court.

Detention in custody in case of refusal to attend or to execute recognizance.

CHAPTER IX.—OF THE CHARGE.

Form of Charges.

Charge to state offence.

94. Every charge under this Act shall state the offence with which the accused person is charged.

Specific name of offence sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused person notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge shall be written in English. If English is not understood by the accused person, the charge shall be interpreted to him in a language which he understands.

Previous conviction when to be set out.

If the accused person has been previously convicted of any offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, or of any other offence mentioned in section 3 or section 4 of Act No. VI of 1864 (*to authorize the punishment of whipping in certain cases*), and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If such statement is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception 1, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

95. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom, or the thing in respect of which, it was committed, as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

When manner of committing offence must be stated.

96. When the nature of the case is such that the particulars mentioned in sections 94 and 95 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

97. The charge may be in the form given in the third schedule to this Act or to the like effect.

Effect of errors.

98. No error, either in the way in which the offence is stated, or in the particulars required to be stated in section 96, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Prisoner may apply for amendment.

99. Any accused person may apply to a Presidency Magistrate for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Magistrate shall take into account the fact that he did or did not make such an application.

Magistrate may alter charge.

100. A Presidency Magistrate may, upon the application of the accused person, or of the complainant, or upon his own motion, alter any charge at any stage of the proceedings before judgment is pronounced.

Every such alteration shall be read and explained to the accused person.

When trial may proceed immediately after alteration.

101. If the alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may in his discretion, after making such alteration, proceed with the trial as if the altered charge had been the original charge.

When new trial may be directed or trial suspended.

102. If the alteration is such that proceeding immediately with the trial is likely, in the opinion of the Presidency Magistrate, to prejudice the accused person in his defence, the Magistrate may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the altered charge; and, after hearing his defence, the Magistrate may further adjourn the trial, to admit of the appearance of any witness whose evidence the Magistrate may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

Adjournment.

Recall of witnesses when charge altered.

103. In all cases of alteration of a charge, the complainant and accused person shall be allowed to recall and examine with reference to such alteration any witness who may have been examined.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

104. If the offence stated in the altered charge be one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered charge is founded.

Joinder of Charges.

Separate charges for distinct offences.

105. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

More offences than one of same kind may be charged within a year of each other.

106. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged with, and tried at the same time for, any number of them not exceeding three.

I.—Trial of more than one offence.

107. I.—If in one series of acts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II.—One offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being, by which offences are defined or punished, the person accused of them may be charged with each of the offences so committed; but he must not receive a more severe punishment than could be inflicted for any of such offences.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

III.—If several acts, of which one or more than one would by itself constitute an offence, form, when combined, a different offence, the person accused of them may be charged with every offence or any of the different offences, which he may have committed; but he must not receive for such offences, collectively, a punishment more severe than that which might have been inflicted for any one of such offences.

Illustrations

to paragraph I—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grevious hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333 of the Indian Penal Code.

(*b*) A has in his possession several seals knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, convicted of, and punished for, the possession of each seal, under section 473 of the Indian Penal Code.

(*c*) A, with intent to cause injury to B, institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding. A also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, convicted of, and punished for, two offences under section 211 of the Indian Penal Code.

(*d*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 of the Indian Penal Code.

(*e*) A, knowing that B, a female minor, has been kidnapped in order that she may be subjected to grievous hurt, wrongfully confines her and detains her against her will as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370 of the Indian Penal Code.

(*f*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147 and 325 and 152 of the Indian Penal Code.

(*g*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506 of the Indian Penal Code.

(*h*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, each of the three offences under section 302 of the Indian Penal Code.

The separate charges referred to in illustrations (*a*) to (*h*) respectively may be tried at the same time.

to paragraph II—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 323 only.

(*j*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then moves the carcase in order to take it dishonestly out of B's possession without B's consent. A, may be separately charged with, and convicted of, offences under sections 429 and 379 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a more severe punishment than if he had convicted him under section 429 only.

(*k*) Several stolen sacks of corn are made over to A and B who know they are stolen property. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code; but the Presidency Magistrate who tries them may not inflict a severer punishment than if he had convicted them under one of those sections only.

(*l*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under one of those sections only.

to paragraph III—

(*m*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

(*n*) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 392 or 394 only.

(*o*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code; but the Presidency Magistrate who tries him may not inflict a severer punishment than if he had convicted him under section 497 only.

108. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed all or any of such offences; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Where it is doubtful what offence has been committed.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

109. If, in the case mentioned in the last preceding section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

When a person is charged with one offence, he can be convicted of another.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

110. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

When offence proved included in offence charged.

Illustrations.

(*a*). A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b*). A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

111. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Presidency Magistrate thinks fit, and the provisions contained in the former part of this chapter shall apply to all such charges.

What persons may be charged jointly.

Illustrations.

(*a*). A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b*). A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c*). A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

112. When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the Government Solicitor or other officer conducting the prosecution, may, with the consent of the Presidency Magistrate, withdraw, or such Magistrate of his own accord may suspend, the inquiry into, or trial of, the remaining charge or charges.

Withdrawal of remaining charges on conviction on one of several charges.

Previous Acquittals or Convictions.

113. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 108, or for which he might have been convicted under section 109.

Person once convicted or acquitted not to be tried for same offence.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section 107, paragraph one.

A person acquitted or convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that for which he was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts, which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed: he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for an assault and convicted. The person assaulted afterwards dies. A may be tried again for culpable homicide.

(*d*) A is tried, under section 270 of the Indian Penal Code, for malignantly doing an act likely to spread the infection of a disease dangerous to life, and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325 of the same Code, with voluntarily causing grievous hurt to that person.

(*e*) A is charged by a Presidency Magistrate with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts, unless the case comes within paragraph three of this section.

(*f*) A is charged by a Presidency Magistrate with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g*) A, B and C are charged by a Presidency Magistrate with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

CHAPTER X.—OF THE TRIAL OF CASES BY PRESIDENCY MAGISTRATES.

114. The following procedure shall be observed in the trial of cases by Presidency Magistrates.

Cases may be tried summarily.

In every such case the Magistrate shall record the following particulars:

(*a*) the serial number,
(*b*) the date of the commission of the offence,
(*c*) the name of the complainant,
(*d*) the name of the accused person,
(*e*) the offence complained of or proved,
(*f*) the prisoner's plea,
(*g*) the final order,
(*h*) the date of such order.

115. No Presidency Magistrate shall impose a fine exceeding two hundred rupees or imprisonment for a term exceeding six months, unless he has recorded the evidence of the witnesses.

Record of evidence.

Sentences passed under section 13 on the same occasion shall for the purposes of this section be considered as one sentence.

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

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

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

116. In cases punishable with fine only, or with imprisonment for a term not exceeding six months, or with both, no formal charge need be made against the accused person; and the Magistrate may convict him of any offence punishable with fine only or with imprisonment for a term not exceeding six months, or with both, and which, from the facts proved, he appears to have committed.

Charge when dispensed with.

In cases in which the Magistrate has power to impose imprisonment for a term exceeding six months, there shall be a formal charge against the accused person.

Charge when necessary.

All charges under this section shall be drawn up by the Magistrate in accordance with the provisions of chapter IX.

117. Neither the complaint nor the process issued thereon shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. No defect in the complaint or process shall invalidate the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Magistrate shall have regard to the manner in which the accused person conducted his defence.

Effect on proceedings of defect in complaint or process.

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

Dismissal or adjournment on non-appearance of complainant.

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

Procedure on appearance of parties.

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

Conviction on admission of truth of complaint.

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

Procedure when no such admission is made.

122. Whenever any charge is drawn up under this Act, it shall be drawn up as soon as the Magistrate is of opinion that a *primâ facie* case has been established against the accused person, and shall be read and explained to the accused person, and he shall be asked whether he is guilty or has any defence to make.

Charge when drawn up.

123. If the accused person be examined, the procedure prescribed in section 84 shall be followed.

Procedure on examining accused.

124. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing, on such terms as he thinks fit, to a day to be then appointed and stated in the presence of the parties.

Adjournment.

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

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

125. If a complainant, at any time before a final order is passed in any case punishable with fine only or with imprisonment for a term not exceeding six months, or with both, satisfies the said Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to do so.

Withdrawal of complaint.

The withdrawal under this section of a complaint shall operate as an acquittal of the accused person.

126. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record an order of acquittal.

Acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him; and, in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, he shall add to the final order mentioned in section 114, clause (*g*), a brief statement of the reasons for the conviction.

Sentence.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate shall be pronounced in his presence, except where the sentence is for fine only, in which case it may be pronounced in the presence of the accused person's advocate, attorney or pleader.

127. If in the course of any trial before a Presidency Magistrate, it appears that the case is one which he has not jurisdiction to try, or one which, in his opinion, ought to be tried by the High Court, he shall stop further proceedings under this chapter, and shall either forward the case to the Magistrate having jurisdiction, or commit the accused person, in accordance with the provisions of chapter VIII, to the High Court for trial.

Procedure when, after commencement of trial, Magistrate finds case beyond his jurisdiction.

128. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Presidency Magistrate considers him an habitual offender, be committed to the High Court.

Trial of persons previously convicted of offences against coinage, stamp law or property.

General Provisions as to Inquiries and Trials.

129. A Presidency Magistrate inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person other than the Advocate-General, Standing Counsel, Government Solicitor or other officer generally or specially empowered by the Local Government in this behalf shall be entitled to do so without such permission.

Permission to conduct prosecution.

Any person conducting the case may do so personally or by an advocate, attorney or pleader.

130. Every person accused before a Presidency Magistrate of an offence, may of right be defended by any advocate, attorney or pleader.

Right of accused to be defended.

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

Procedure where accused does not understand proceedings.

132. The place in which the Court of a Presidency Magistrate is held for the purpose of inquiring into or trying any offence, shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Presidency Magistrates' Courts to be open.

Provided that the Magistrate may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be, or remain in, the room or building used by the Magistrate.

133. In the case of offences which may lawfully be compounded, the injured person may compound the

Compounding offences.

offence out of Court, or in Court with the permission of the Presidency Magistrate. Such composition shall have the effect of an acquittal of the accused.

CHAPTER XI.—OF EVIDENCE.

A.—Of securing the Attendance of Witnesses.

134. Any Presidency Magistrate may, at any stage of any proceeding, inquiry or trial under this Act, summon, in manner provided by chapter VI, any witness, or examine any person in attendance though not summoned as a witness; and the Magistrate shall summon and examine such person if his evidence appears essential to the just decision of the case.

Power to summon material witness or examine person present.

135. If a Presidency Magistrate has reason to believe that any witness, whose attendance is required will not attend to give evidence without being compelled to do so, he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

When warrant of arrest may issue in first instance.

136. If any person summoned under this Act to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Presidency Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand to bring such person before him to testify as aforesaid.

Arrest of person disobeying summons.

137. If such warrant cannot be executed, and the Magistrate has reason to believe that the witness absconds or conceals himself for the purpose of preventing the execution thereof, he may issue a notice, requiring the attendance of such witness to give evidence at a time and place to be named therein, and such notice shall be affixed to some conspicuous part of such witness' ordinary place of abode, or, if he has no such abode, of the Magistrate's Court.

Procedure when warrant cannot be served.

If the witness does not attend at the time and place so named, the Magistrate may order the attachment of any moveable property belonging to such witness, equal in value, as nearly as may be, to the amount of the costs of attachment and of any fine to which the witness may be liable under the provisions of section 172 of the Indian Penal Code.

138. The provisions of section 68 and section 69 as to the attachment, sale and restoration of moveable property shall apply to all property ordered to be attached under section 137.

Attachment, &c., of property ordered to be attached under section 137.

139. Notwithstanding anything contained in the Prisoners' Testimony Act, 1869, any Presidency Magistrate desirous of examining, as a witness or accused person, in any case pending before him, any person confined in any jail within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

Power to order prisoner in jail to be brought up for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

140. The Presidency Magistrate may require complainants and witnesses for the prosecution and defence whose attendance before him is necessary, to execute recognizances, in the form (F) given in the third schedule to this Act, or to the like effect, to be in attendance when called upon to prosecute or give evidence, as the case may be.

Power to require complainants, &c., to execute recognizances.

141. If any witness summoned or brought before a Presidency Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 205 or 206.

Committal of person refusing to answer.

B.—Of Witnesses.

142. In the case of offences punishable with fine only or with imprisonment for a term not exceeding six months, or with both, it shall ordinarily be the duty of the complainant and accused to produce their own witnesses. But the Presidency Magistrate may in his discretion—

In cases triable upon summons.

(*a*) summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused;

(*b*) summon any witness named by the complainant or the accused:

Provided that the Magistrate may, before summoning a witness, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

143. In the case of all other offences, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before him such of them as he thinks necessary.

In cases triable upon warrant.

The Magistrate shall also summon any witness, and take any evidence that may be offered, in behalf of the accused person, to answer or disprove the evidence against him.

C.—Of Securing Documentary Evidence.

144. Whenever a Presidency Magistrate considers that the production of any document or other thing is necessary or desirable for the purposes of any inquiry trial, or other proceeding under this Act, he may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it at the time and place stated in the summons.

Summons to produce document required as evidence.

145. Where there is reason to believe that th person to whom the summons is addressed will not produce the document or

Issue of search-warrant in first instance.

other thing as directed in the summons, the Magistrate may issue a warrant to search for such document or thing in the first instance.

Procedure as to letters in custody of Postal Department or telegraph officer.

146. If any letter in the custody of the Postal Department is wanted for the purpose of any inquiry or trial by a Presidency Magistrate, the Magistrate may, if he is the Chief Magistrate, direct the postal authorities to deliver such letter to such person as the Magistrate directs, and if he is not the Chief Magistrate, may apply to the Chief Magistrate, who may, if he thinks fit, give such direction.

The letter referred to in any direction given under this section shall be delivered accordingly.

Power to impound document produced.

147. Any Presidency Magistrate may, if he thinks fit, impound any document or other thing produced before him, or may, at the conclusion of the proceedings, order it to be returned to the person who produced it.

D.—Of the Examination of Accused Persons.

Examination of accused.

148. At any stage of any inquiry or trial under this Act, the Magistrate may, without previously warning the accused person, put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal or false answers.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not only in such inquiry or trial, but also in any other inquiry into, or trial for, any other offence which such answer may tend to show he has committed.

No influence to be used to induce disclosures.

149. Except as is provided in section 150, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Tender of pardon to accomplice.

150. A Presidency Magistrate may, with the view of obtaining the evidence of any persons supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the second schedule hereto annexed as triable exclusively by the High Court, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances, within his knowledge, relative to such offence and to every other person concerned in the perpetration thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial.

Commitment of person to whom pardon has been tendered.

151. When a pardon has been tendered under section 150, if before the trial it appears to the Presidency Magistrate that any person who has accepted such tender has either by wilfully concealing anything essential, or by giving false evidence, not complied with the conditions under which the tender was made, such Magistrate may commit him for trial for the offence in respect of which the pardon was so tendered, or for any other offence of which he may appear to have been guilty in connection with the same matter.

The statement made by a person under pardon which pardon has been withdrawn under this section, may be put in evidence against him.

E.—Special Rules of Evidence.

Deposition of medical witness.

152. The deposition of a civil surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any inquiry or trial under this Act, although the deponent is not called as a witness.

The Presidency Magistrate may, if he thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Power to summon medical witness.

Report of Chemical Examiner.

153. Any document purporting to be a report from the Chemical Examiner, or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any inquiry or trial under this Act, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any inquiry or trial under this Act.

Genuineness of signature may be presumed.

The Presidency Magistrate may presume that the signature to any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Power to summon Chemical Examiner.

The Presidency Magistrate may, if he thinks fit, summon and examine such Chemical Examiner or Assistant Chemical Examiner as to the subject-matter of his said report.

Previous conviction or acquittal how proved.

154. A previous conviction or acquittal may be proved (*a*) by an extract certified, under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had, to be a copy of the sentence or order, or (*b*), in case of a conviction either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted or by production of the warrant of commitment under which the punishment was suffered.

Record of evidence in absence of accused.

155. If an accused person abscond, and after due pursuit cannot be arrested, the Presidency Magistrate may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions; and any such deposition may, on the arrest of such person, be put in on his trial for the offence with which he is charged, if the attendance of the deponent cannot be procured.

Convictions on evidence partly recorded by one Magistrate and partly by another.

156. Whenever any Presidency Magistrate, after having heard the whole or any part of the evidence in an inquiry or trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and re-commence the inquiry or trial:

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses be re-summoned and reheard, in which case the inquiry or trial shall be re-commenced:

Provided also that the High Court may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court is of opinion that the accused person has been materially prejudiced thereby; and may order a new inquiry or trial.

When attendance of witness may be dispensed with.

157. Whenever in the course of a trial or inquiry under this Act it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Presidency Magistrate may dispense with such attendance.

Issue of commission and procedure thereunder.

158. Such Magistrate may direct a commission to any Magistrate of the District, or Magistrate of the first class, within the local limits of whose jurisdiction such witness may be.

The Magistrate to whom the commission is directed, or, if he be the Magistrate of the District, such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where such witness is, or shall summon such witness before himself, and shall take his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure.

Commission in case of witness being within Presidency town.

If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, other than the Magistrate dispensing with his attendance, the latter Magistrate may direct a commission to the former Magistrate, who thereupon shall have the like power to compel the attendance of, and to examine, such witness as he possesses for that purpose in cases pending before himself.

Complainant and accused may examine witness.

The complainant and the accused person may respectively forward interrogatories, in writing, upon which the Magistrate to whom the commission is directed shall examine the witness,

or the complainant and the accused person (if on bail) may appear before such Magistrate,

or the complainant and the accused person may so appear respectively by advocate, attorney or pleader,

and may examine, cross-examine and re-examine (as the case may be) the said witness.

Return of commission.

After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Magistrate by whom it was issued; and the commission, the return thereto, and the deposition of such witness, may be used as evidence in the case and shall form part of the record.

F.—Of Search-Warrants.

Search-warrant when grantable.

159. When a Presidency Magistrate considers that the production of any thing is essential to the conduct of an inquiry into an offence known or suspected to have been committed or to the discovery of the offender,

or when he considers that such inquiry or discovery will be furthered by a general search or inspection,

he may grant his search-warrant; and the officer charged with the execution of such warant may search or inspect any place within the local limits of the jurisdiction of such Magistrate.

The Magistrate may, if he thinks fit, specify in the warrant the particular place, building or part thereof to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the place, building or part so specified.

Nothing in this section or in section 145 shall authorize a Magistrate to grant a warrant to search for a letter or telegram in the custody of the Postal Department or of a telegraph officer.

Search of house suspected to contain stolen property or forged documents.

160. If a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or of property which has been fraudulently obtained,

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin, or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any place,

he may by his warrant authorize any Police-officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, and by force if necessary, such place, and

(*b*) to search the same as specified in the warrant, and

(*c*) to take possession of any property, documents, stamps, seals or coins therein found, which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also any such instruments and materials as aforesaid, and

(*d*) to convey such property, documents, stamps, seals, coins, instruments or materials before a Presidency Magistrate, or to guard the same on the spot until the offender is taken before a Presidency Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before the said Magistrate every person found in such place, who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, stamps, seals, coins, instruments or materials knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, stamps, seals, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or for forging.

Direction, &c., of search-warrants.

161. The provisions of sections 59, 60 and 61 shall apply to all search-warrants issued under this chapter.

162. Whenever any place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search.

163. A Police-officer or other person, authorized by a warrant to search any place, may break open any outer or inner door or window of such place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Place to be searched may be broken open.

164. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall, unless a warrant of arrest has been issued against her, give her notice that she is at liberty to withdraw.

Search of zanána.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of making the search, using at the same time every precaution consistent with this section for preventing the clandestine removal of the thing mentioned in the warrant.

165. Before making a search under this chapter the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

Search to be made in presence of witnesses.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless especially summoned by him.

The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

Occupant of place searched may attend.

166. Whenever it is necessary to cause a woman to be searched, the search shall be made with strict regard to the customs of the country.

Mode of searching women.

CHAPTER XII.—OF APPEALS.

167. Any person convicted on a trial held by a Presidency Magistrate, may appeal to the High Court if the Magistrate has sentenced him to imprisonment for a term exceeding six months, or to fine exceeding two hundred rupees:

Appeal by person convicted.

Provided that, where an accused person has been convicted on his own plea, no such appeal shall lie except as to the extent or legality of the sentence.

Sentences passed under section 13 on the same occasion shall, for the purposes of this section, be considered as one sentence.

For the purposes of the Indian Limitation Act, 1871, all appeals under this section and all applications to the High Court for the exercise of the powers given by Act No. X of 1875, section 147, shall be deemed to be appeals under the Code of Criminal Procedure.

168. The Local Government may direct the Public Prosecutor or other officer specially or generally appointed in this behalf to present an appeal to the High Court from a Presidency Magistrate's order of acquittal or of dismissal, or of discharge; but in no other case shall there be an appeal by the prosecution from any order under this Act.

Appeal by Government from order of acquittal.

No appeal shall be presented under this section after two months from the date of the order complained of.

When an appeal is presented under this section, the High Court may order the accused person to be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or (if the offence of which he is accused be bailable) admit him to bail.

The High Court may, in any case so appealed, direct a new trial by any Presidency Magistrate, or may pass such order as may be warranted by law.

169. Every petition of appeal under this Act shall be accompanied by a copy of the order appealed against.

Copy of order to accompany petition.

170. If any person affected by an order passed under this Act desires to have a copy of such order or of any deposition or other part of the record, he shall, on applying for such copy, be furnished therewith; provided that he pay for the same, unless the Magistrate, for some special reason, thinks fit to furnish it free of cost.

Copies of proceedings.

171. If the appellant be in jail, he shall be at liberty to present his petition of appeal, and the copy of the order appealed against, to the officer in charge of the jail, who shall thereupon forward such petition and copy to the High Court.

Procedure when appellant in jail.

172. On receiving the petition of appeal and the copy of the order appealed against, the High Court shall peruse the same, and may fix a reasonable time for hearing the appellant or his advocate or pleader, or if he be present may hear him at once.

Procedure on receiving petition of appeal.

The High Court may, if it considers that there is no sufficient ground for altering or revising the order appealed against, reject the appeal summarily.

Power to reject appeal summarily.

Before rejecting an appeal under this section, the High Court may call for the record of the case, but shall not be bound to do so.

Power to call for record.

In rejecting under this section an appeal by a person convicted, the High Court shall not enhance the sentence.

Sentence not to be enhanced when appeal rejected under this section.

173. If the High Court does not reject the appeal summarily, it shall cause notice to be given to the appellant and the Public Prosecutor, Government Solicitor, or other officer

Notice of day for hearing appeal.

empowered by Government in that behalf, of the day on which such appeal will be heard,

and in case of appeals under section 168, the High Court shall also cause a like notice to be given to the respondent.

All such notices shall be served in manner provided by this Act for serving a summons unless in the case of persons present in Court, to whom they may be given orally.

Service of notice.

174. The High Court shall send for the record of the case, and after perusing the same, and hearing the appellant or his advocate or pleader, if he appears, and the Government Solicitor or other officer empowered by Government in this behalf, if he appears, may—

High Court may alter or reverse finding and sentence, or enhance sentence.

(*a*) alter or reverse the order of such Court, or

(*b*) enhance any punishment which has been awarded, but not so as to inflict a greater punishment for the offence which, in the opinion of the High Court, he has committed, than the Presidency Magistrate could have inflicted for such offence, or

(*c*) order the appellant to be re-tried before any Presidency Magistrate or before the High Court, or

(*d*) if it considers that there is no sufficient ground for interfering with the sentence or order appealed against, reject the appeal.

175. Pending any appeal under section 167, the High Court may direct that the execution of the order appealed against be suspended, and, if the appellant be in confinement for a bailable offence, may order that he be released on bail.

Suspension of sentence pending appeal.
Release of appellant on bail.

Where the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in calculating the term of his imprisonment.

176. In dealing with any appeal under this chapter, the High Court, if it thinks additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, may either take such evidence itself, or may direct it to be taken by a Presidency Magistrate.

High Court may make or direct further inquiry.

When the additional evidence is taken by the Presidency Magistrate, he shall certify such evidence to the High Court, and the High Court shall thereupon proceed to dispose of the appeal.

Unless the High Court otherwise directs, the accused person or his advocate, attorney or pleader, shall be present when the additional evidence is taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined before a Magistrate under this section.

177. No order passed by a Presidency Magistrate shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings, or on account of the improper admission or rejection of any evidence, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the accused person in his defence.

Order when reversible by reason of error or defect in charge or proceedings.

178. No irregularity in the proceedings prior to the commencement of the trial is a sufficient ground for reversing or altering any order passed in a trial properly held.

Irregularity before trial properly held.

179. When a Presidency Magistrate has passed an order inflicting punishment on any person for an offence not triable by such Magistrate, the High Court shall cancel the order, and either try the case itself or direct it to be tried by a Court of competent jurisdiction.

Procedure in case of conviction by Magistrate not having jurisdiction.

180. No appeal shall lie from any order of a Presidency Magistrate, except in the cases provided for by this Act or by any other law for the time being in force.

Unless otherwise provided, no appeal to lie from order of Presidency Magistrate.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation, in case of a groundless complaint.

(*b.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*c.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour.

(*d.*) There is no appeal against an order of maintenance.

181. Whenever an application is made to the High Court for the exercise of the powers conferred by the High Courts' Criminal Procedure Act, 1875, section 147, the applicant shall give to the Public Prosecutor, Government Solicitor, or such other officer as the Local Government appoints in this behalf, notice in writing of the application, together with a copy of the grounds on which it is to be made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Notice to Public Prosecutor of intention to apply under Act X of 1875, s. 147.

182. When the decision of any Presidency Magistrate is called in question in the High Court, the Magistrate may submit with the record of the case a statement setting forth the grounds of his decision and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision.

Statement by Magistrate of grounds of his decision, to be considered by High Court.

CHAPTER XIII.—OF EXECUTION.

183. In cases tried by a Presidency Magistrate, the Magistrate passing any order inflicting imprisonment or whipping shall forward the accused person with a warrant for the execution of the sentence to the officer in charge of the jail of the Presidency town in which the trial was held,

Court to send accused with warrant for execution of sentence to officer in charge of jail.

or where there are more such jails than one, to the officer in charge of such of them as the Local Government from time to time directs in this behalf.

The warrant shall state the offence of which the accused person has been convicted, the nature of the punishment to which he has been sentenced, and if he has been sentenced to imprisonment, the term for which he is to be imprisoned.

184. Every such warrant shall be in writing under the hand of the Magistrate who issues it, and shall be directed to the officer in charge of the jail aforesaid, and shall be in the form (G) given in the third schedule to this Act or to the like effect.

Form and direction of warrant of commitment.

185. Whenever a Presidency Magistrate imposes a fine under this or any other Act for the time being in force, he may issue a warrant for the levy of the amount of the fine by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Levy of fine.

Such warrant may be executed within the local limits of such Magistrate's jurisdiction, and it shall authorize the distress and sale of any such property without such limits when endorsed by the Magistrate of the District in which it is found.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Section to what cases applicable.

When a warrant is issued under this section, the Presidency Magistrate may order the offender to be imprisoned until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, as the Magistrate thinks fit, conditioned for his appearance before the Magistrate on the day appointed for such return, such day not being more than eight days from the time of taking the recognizance. But if, before issuing such warrant of distress, it appears to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the local limits of his jurisdiction whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant.

Detention of offender until return made to distress-warrant.

No distress made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto.

Distress not illegal, nor distrainer a trespasser, for defect of form in proceedings.

The said warrant may be issued either by the Magistrate who imposes the fine, or by his successor in office.

Who may issue distress-warrant.

186. Whenever a Presidency Magistrate imposes a fine under any law in force for the time being, he may order the whole or any part of the fine to be paid in compensation—

Payment of fine in compensation.

(*a*) for expenses properly incurred in the prosecution,

(*b*) for the injury complained of, where such injury can, in the opinion of such Magistrate, be compensated by money.

Such payment shall be made, as the Magistrate thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be imposed in a case which is subject to appeal, no such payment shall be made until the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, until after the decision of the appeal.

At the time of awarding damages in any subsequent civil suit relating to the same matter, the Court shall take into consideration any sum which may have been paid under this section.

187. When the punishment of whipping is imposed, in addition to imprisonment, in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the High Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the High Court confirming the sentence.

Whipping, if imposed in addition to imprisonment in appealable case, when to be inflicted.

188. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school-discipline with a light ratan.

Mode of inflicting punishment of whipping.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall such punishment exceed thirty stripes.

The punishment of whipping shall be inflicted in the presence of the officer in charge of the jail: provided that, in the case of a person under sixteen years of age, the Magistrate may order it to be inflicted in his own presence.

189. The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the officer or Magistrate present, that the offender is in a fit state of health to undergo such punishment.

Punishment not to be inflicted if offender not in fit state of health.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the officer or Magistrate present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Stay of execution.

190. No sentence of whipping shall be executed by instalments.

Not to be executed by instalments.

191. In any case in which, under section 189, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Magistrate who passed the sentence can revise it; and the said Magistrate may, at his descretion, either remit such sentence, or sentence the offender, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to

Procedure if punishment be prevented under section 189.

imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the Magistrate is competent to inflict.

192. When sentence is passed under this Act on an escaped convict, such sentence, if of fine or whipping, shall take effect immediately, and, if of imprisonment, shall take effect after he has undergone the portion of his former sentence which remained unexpired at the time of his escape.

Currency of sentence on escaped convicts.

193. When a person already under sentence of imprisonment or transportation is sentenced under this Act to imprisonment, such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced.

Commencement of sentence on offender already sentenced for other offence.

PART III.

CHAPTER XIV.—OF LUNATICS.

194. When any person accused before a Presidency Magistrate of an offence appears to such Magistrate to be of unsound mind and incapable of making his defence, the Magistrate shall enquire into the fact of such unsoundness, and shall cause the accused person to be examined by such medical officer as the Local Government directs, and thereupon shall examine such officer as a witness, and shall reduce the examination into writing.

Procedure when accused is a lunatic.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

195. When, from the evidence given before a Presidency Magistrate, there appears to be sufficient ground for believing that an accused person committed an act which, if he had been of sound mind, would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of such act or that he was doing what was contrary to law, the Presidency Magistrate shall, if such accused person appears to be of sound mind at the time of the inquiry or trial, proceed with the case.

When accused appears to have been insane.

196. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Presidency Magistrate, if the offence of which such person is accused be bailable, may release him on sufficient bail being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or such officer as the Magistrate appoints in this behalf.

Release of lunatic on bail.

If the offence be non-bailable, or if sufficient bail be not given, the Magistrate shall report the case for the order of the Local Government, and the accused person shall be kept in safe custody in such place as the Local Government directs.

Custody when bail not given.

197. Whenever proceedings are stayed under section 194, the Presidency Magistrate may at any time resume the inquiry or trial, and require the accused person to appear or to be brought before him.

Resumption of inquiry or trial.

When the accused person has been released under section 196, and the sureties for his appearance produce him to the officer whom the Magistrate appoints in this behalf, the certificate of such officer that the accused person is capable of making his defence shall be receivable as evidence.

198. If, when the accused person appears or is again brought before the Magistrate, such Magistrate considers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate.

If the Magistrate considers the accused person to be still incapable of making his defence, the Magistrate shall again act according to section 194.

199. Whenever any person is acquitted by a Presidency Magistrate upon the ground that, at the time at which such person is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence complained of, or that he was doing what was contrary to law, the order of acquittal shall state specially whether he committed the act or not.

Finding in case of acquittal on ground of being lunatic.

200. Whenever such order states that the accused person committed the act alleged, the Presidency Magistrate before whom the trial was held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody, in such place and manner as the Magistrate thinks fit, and shall report the case for the order of the Local Government.

Procedure when lunatic committed the act alleged.

The Local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

201. When any person is confined under the provisions of section 196 or 200, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Visiting of lunatic prisoners.

202. If such person is confined under section 196, and such Inspector General or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Presidency Magistrate at such time as such Magistrate appoints, and such Magistrate shall deal with such person under the provisions of section 198; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner reported capable of making defence.

203. If such person is confined under the provisions of section 200, and such Inspector General or visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

Procedure where lunatic confined under section 200 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as it thinks fit.

204. Whenever any relative or friend of any person detained under the provisions of section 200 is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person so detained shall be properly taken care of and shall be prevented from doing injury to himself or another, may order such person to be delivered to such relative or friend.

Delivery of lunatic to care of relative.

Whenever such person is so delivered over, it shall be upon condition that he shall be produced for the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections 201 and 203 shall, *mutatis mutandis*, apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector General of Prisons, or the visitors of lunatic asylums, under the said sections.

CHAPTER XV.—OF CONTEMPTS OF COURT.

205. When any such offence as is described in sections 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of a Presidency Magistrate, he may cause the offender to be detained in custody; and, at any time before the Magistrate leaves his Court on the same day, he may take cognizance of the offence, and sentence the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

In every such case, the Magistrate shall record the acts constituting the offence, with the statement (if any) made by the offender as well as the finding and sentence.

If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Magistrate interrupted or insulted was sitting, and the nature of the insult or interruption.

206. If the Presidency Magistrate considers that a person accused of any of the offences referred to in section 205 should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Magistrate, after recording the facts constituting the offence and the statement of the accused person shall forward the case to another Presidency Magistrate, and shall require bail to be given for the appearance of such accused person before such other Magistrate, or, if sufficient bail be not given, shall forward such person under custody to such Magistrate.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

Such other Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Presidency Magistrate; and may sentence the offender to punishment, as provided in the section under which he is charged.

207. When any Presidency Magistrate has sentenced an offender to punishment, or forwarded him to another Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the former Magistrate may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Magistrate, or on apology being made to his satisfaction.

Discharge of offender on submission or apology.

CHAPTER XVI.—OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace.

208. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Presidency Magistrate,

Personal recognizance to keep the peace in cases of conviction.

and such Magistrate is of opinion that it is necessary to require such person to execute a personal recognizance for keeping the peace,

he may, in addition to any other order passed in the case, order the person so convicted to execute a personal recognizance for keeping the peace during such period as the Magistrate thinks fit to fix, not exceeding one year.

209. Whenever a Presidency Magistrate is of opinion that it is necessary to require sureties for keeping the peace, in addition to the personal recognizance of the person so convicted, such Magistrate may require him to give such sureties, and may fix the penalties which the sureties shall be respectively bound to discharge, and may direct that, if such bail be not given, he shall be imprisoned for such term not exceeding one year as the Magistrate thinks fit.

Sureties for keeping the peace.

210. If the person so convicted be sentenced to imprisonment, the period so fixed, and the term of imprisonment in default of executing the recognizance, shall commence on the expiration of his sentence.

Commencement of period during which person may be bound to keep peace.

Where the order to execute such recognizance is not made at the time of signing, or by the Magistrate who signs the judgment, the person so convicted must be produced before the Magistrate making such order.

211. Whenever it appears to a Presidency Magistrate that it is necessary for the preservation of the peace that the term for

Extension of time for which person is bound.

which any person is so bound should be extended, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the High Court.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize him to extend such term for a further period not exceeding one year from the expiration of the first year.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section 215.

B.—Security for Good Behaviour.

212. Whenever it is proved before a Presidency Magistrate that any person is lurking within the local limits of his jurisdiction, or that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, the Magistrate may require such person to enter into such recognizance, with sureties, for his good behaviour for a period not exceeding six months, as the Magistrate thinks sufficient.

When Magistrate may require security for good behaviour for six months.

213. Whenever it is proved before a Presidency Magistrate that any person is by repute

When Magistrate may require security for good behaviour for one year.

a robber, house-breaker or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood,

or of a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

214. Whenever it is proved before a Presidency Magistrate that any person is an habitual robber, house-breaker or thief,

Procedure where security required for more than one year.

or an habitual receiver of stolen property, knowing the same to have been stolen,

or of a dangerous character,

and that his release without security, at the expiration of the limited period of one year, would be hazardous to the community,

the Magistrate shall record his opinion to that effect, and make an order requiring similar security for the good behaviour of such person for a period not exceeding three years.

If such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the High Court.

C.—Provisions as to both Kinds of Security.

215. Whenever a Presidency Magistrate receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, or that he is one of the persons referred to in sections 212, 213 and 214, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to execute a recognizance to keep the peace or for good behaviour, as the case may be.

Summons to person to show cause why he should not give bond to keep peace or for good behaviour.

EXPLANATION I.—A summons calling on a person to show cause why he should not execute such recognizance, may be issued on any report or other information which the Magistrate believes; but the Magistrate shall not require any person to execute such recognizance until the Magistrate has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may, if he thinks fit, recall any summons issued under this section.

216. Such summons shall set forth the substance of the report or information on which it is issued, the penalty to be specified in the recognizance, and the term for which it is to be in force, and, if bail are to be taken, their number, the penalties which they shall be respectively bound to discharge, and the time and place at which the person summoned is required to attend.

Contents of summons.

When the person believed to be likely to commit a breach of the peace or to be one of the persons referred to in sections 212, 213 and 214, is present in Court, no summons is necessary, but the Magistrate may at once require him to show cause why he should not be required to execute the recognizance.

217. If the person summoned does not attend on the day appointed at the hour and place named in the summons, the Presidency Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

When warrant of arrest may issue.

Provided that, whenever it appears to such Magistrate, upon the report of a Police-officer or upon other credible information (the substance of which report or information shall be recorded by the Magistrate on the warrant), that there is reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, or that there is reason to think that any person is one of the persons so referred to, the Magistrate may at any time issue a warrant for his arrest.

218. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section 215, and may permit him to appear and execute the required recognizance, or show cause against such requisition, by an advocate, attorney or pleader.

Magistrate may dispense with personal attendance of person informed against.

219. If on the appearance of the person so informed against or, if his attendance is dispensed with, of his advocate, attorney or pleader, the Magistrate is not satisfied that there is occasion to bind over such person to keep the peace, or to be of good behaviour, the Magistrate shall direct his discharge.

Discharge of person informed against.

220. If the Magistrate is satisfied that it is necessary for the preservation of the peace or the maintenance of good behaviour that such person shall execute a recognizance, the Magistrate shall make an order accordingly.

Order to give bond and consequence of non-compliance.

The penalty specified in every recognizance executed under this chapter shall be fixed with due regard to the circumstances of the case and the means of the person bound.

The penalty which the sureties shall be jointly and severally bound to discharge shall not exceed the penalty which the principal debtor is bound to discharge.

221. If a person required to furnish security under section 214 does not furnish the same, or offers sureties whom the Magistrate rejects, the proceedings shall be laid, as soon as conveniently may be, before the High Court.

Proceedings to be laid before High Court.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass such orders on the case as it thinks fit, provided that the period (if any) for which it may direct the security to be taken shall not exceed three years.

222. Whenever security is required under this chapter, the amount of the security, the number and description of sureties, and the period of time for which the recognizance is to remain in force, shall be stated in the order, and the recognizance shall be in the form (H) or (I), as the case may be, given in the third schedule hereto annexed or to the like effect.

Contents of order for security.

Form of recognizance.

223. In the event of any person required to give security under the provisions of this chapter failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Imprisonment in default of security.

Term of imprisonment.

Imprisonment under this section may be rigorous or simple, as the High Court or Magistrate in each case directs.

224. If any person required under this chapter to enter into a recognizance is under sentence of imprisonment, he shall, on or after the expiration of his sentence, be brought up before the Magistrate for the purpose of entering into such recognizance.

Binding of sentenced person.

225. A Presidency Magistrate may at any time release any person imprisoned for failing to furnish security for good behaviour, whether by his own order or that of his predecessor in office, provided that the Magistrate is of opinion that such person may be released without hazard to the community.

Release of prisoners under requisition of security.

Whenever a Presidency Magistrate is of opinion that any person imprisoned for failing to furnish security for good behaviour, as ordered by the High Court, may be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of the High Court.

Release of prisoner under requisition of security by order of High Court.

226. A surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate to discharge his recognizance.

Discharge of sureties.

On such application being made, the Magistrate shall issue his summons or warrant requiring the person for whom such surety is bound to appear or be brought before him.

When such person appears or is brought before the Magistrate, such Magistrate shall discharge the recognizance of the surety, and shall order such person to give a fresh surety.

227. The commission, or attempt to commit, or the abetment of, any offence whatever, and wherever it may be committed, is a breach of the recognizance.

Commission, &c., of offence, a breach.

228. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter has been forfeited, he shall record the grounds of such proof, and call upon the person bound by such recognizance to pay the penalty thereof, or to show cause why it should not be paid.

Recovery of penalty from principal.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any moveable property belonging to the person bound by such recognizance.

Such warrant may be executed within the local limits of the jurisdiction of the Magistrate who issued it; and it shall authorize the distress and sale of any moveable property belonging to the person so bound without such limits, when endorsed by the Magistrate of the District in which such property is found.

If such penalty be not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable to imprisonment by order of the Presidency Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person so bound has had an opportunity of showing cause against the enforcement, and until the breach of the condition of the recognizance has been proved.

229. Whenever it is proved before a Presidency Magistrate that any recognizance entered into under this chapter by a surety has been forfeited, the Magistrate may give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

Recovery of penalty from surety.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover the penalty from such surety in manner provided by the last preceding section.

And in case such penalty cannot be so recovered, the Magistrate may sentence the surety to imprisonment in the civil jail for a period not exceeding six months.

230. Any previous conviction of the person to be bound may, in proceedings under this chapter, be proved in the manner prescribed in section 154.

Proof of previous conviction.

231. Proceedings under this chapter may be taken in any district in which the breach of the peace is apprehended, or in which an offence has been committed in breach of the bond, or in which the person whom it is desired to bind may be.

Where proceedings under this chapter may be taken.

232. The provisions of this chapter relating to security for good behaviour do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.

Provisions of chapter not applying to European vagrants.

CHAPTER XVII.—OF RESTORING POSSESSION OF IMMOVEABLE PROPERTY.

233. Whenever any person is convicted by a Presidency Magistrate of an offence attended with criminal force, and it appears to such Magistrate that, by such criminal force, any person has been dispossessed of any immoveable property, the Magistrate may order such person to be restored to possession.

Power to restore possession of immoveable property.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

CHAPTER XVIII.—OF THE MAINTENANCE OF WIVES AND FAMILIES.

234. If any person, having sufficient means, neglects or refuses to maintain his wife, or his legitimate or illegitimate child unable to maintain itself, a Presidency Magistrate may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his said wife, or child, or both, at such monthly rate not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Order for maintenance of wives and children.

Such allowance shall be payable from the date of the order.

If any person so ordered wilfully neglects to comply with the order, a Presidency Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines; and may sentence such person, for each month's allowance remaining unpaid, to imprisonment for any term not exceeding one month:

Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

Proviso.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

235. On the application of any person receiving, or ordered to pay, a monthly allowance under the provisions of section 234, and on proof of a change in the circumstances of such person, his wife or child, the Magistrate may make such alteration in the allowance ordered as he thinks fit, provided the monthly rate of fifty rupees be not exceeded.

Alteration in allowance.

236. A copy of the order of maintenance shall be given without fee to the person in whose favour it is made, or to his guardian (if any); and such order shall be enforceable by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

Enforcement of order.

PART IV.

CHAPTER XIX.—MISCELLANEOUS.

237. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Presidency Magistrate's Court.

Procedure in miscellaneous criminal cases and proceedings.

238. All offences against the provisions of any law for the time being in force relating to Railways, Telegraphs, the Post Office, and Arms and Ammunition may be enquired into by a Presidency Magistrate, and may be tried according to the provisions of this Act.

Offences against Railway, Telegraph, Post Office and Arms' Acts.

239. The powers conferred on a Presidency Magistrate by section 238 may be exercised whether the offence is stated to have been committed within the local limits of his jurisdiction or not; but such powers shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within such limits.

Extent of jurisdiction.

240. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which may arise in the hearing of any case in which he has jurisdiction; or may give judgment in any such matter, subject to the decision of the High Court on such reference; and, pending such decision by the High Court, may either commit the accused person to jail or release him on bail to appear for judgment when called upon.

Reference to High Court.

241. When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall proceed to dispose of the case conformably to the said order.

Disposal of case according to decision of High Court.

The High Court may direct by whom the costs of the reference shall be paid.

Direction as to costs.

242. Whenever any person causes a Police-officer to arrest another person, and whenever a complaint of any offence is made before any Presidency Magistrate,

Compensation to person groundlessly given in charge or complained against.

if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest or for making such complaint, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest or making the complaint, to the person so arrested or complained against, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

In such cases, if more persons than one are arrested or complained against, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

All compensation awarded under this section may be recovered as if it were a fine.

243. When the inquiry or trial before any Presidency Magistrate is concluded, he may make such order as he thinks fit for the disposal of any moveable property produced before him regarding which any offence appears to have been committed.

Order for disposal of property regarding which offence committed.

EXPLANATION.—In this section the term 'property' includes not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

244. If any property alleged to be stolen or fraudulently obtained, is in the custody of any Police-officer by virtue of any warrant of a Presidency Magistrate, or in prosecution of any complaint of an offence in regard to the obtaining thereof, and the person accused of such offence is not found, or has been summarily dealt with and discharged, or has been tried and acquitted,

Power to order disposal of property connected with charge, in Police-custody.

or if such person has been tried and found guilty, but the property so in custody has not been included in the charge upon which he has been found guilty,

or if any property has been seized by a Police-officer under section 160,

any Presidency Magistrate may make an order for the delivery of such property to the person appearing to be the rightful owner thereof; or, in case the owner cannot be ascertained, may make such order with respect to the property as the Magistrate thinks fit:

Provided that no such order shall bar the right of any person to sue the person to whom the property is delivered, and to recover such property from him, so that the suit be instituted within six months next after such order has been made.

245. Subject to any rules that may be made by the Local Government, with the previous sanction of the Governor General in Council, a Presidency Magistrate may order

Expenses of complainants and witnesses.

payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial under this Act.

All persons to give information of certain offences.

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

All persons to assist Magistrate and Police in certain cases.

247. Within such local limits every person is bound to assist a Presidency Magistrate or Police-officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

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

SCHEDULE I.

ACTS REPEALED.

(SEE SECTION 2.)

No. and year.	Title or subject.	Extent of repeal.
XIII of 1856 ...	Presidency Towns Police	In the preamble, the words "and the administration of justice in the Police Courts." In section one, the words and figures "sections II and IV of Act XXII of 1837 and." Sections twenty-two, twenty-three, twenty-six to thirty-one (both inclusive), thirty-six, thirty-seven, forty-one, forty-two, forty-four, forty-five, eighty-three, eighty-four, eighty-seven, ninety-five to ninety-eight (both inclusive), one-hundred to one-hundred-and-four (both inclusive), one-hundred-and-six, one-hundred-and-eight to one-hundred-and-eleven (both inclusive). In section twenty-four, the words "or by any Magistrate of Police." In section thirty-five, clause two, the words "on oath." In section ninety-three, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
XLVIII of 1860	Amending Act XIII of 1856.	Sections four, five, six, eight, ten, twenty-four, twenty-five and twenty-six.
LII of 1860 ...	Trials for breach of Railway Police Regulations	The whole.
XXI of 1864 ...	An Act for the extension of the jurisdiction of the Magistrates of Police in Calcutta.	The whole.
Madras Act VIII of 1867.	Madras Town Police and Police Magistrates.	In the preamble, the words "and to extend the jurisdiction of the Town Police Magistrates." Sections ten, twelve to sixteen (both inclusive), nineteen, twenty-one, twenty-two, fifty-two, fifty-three, sixty to seventy (both inclusive), seventy-two to seventy-four (both inclusive). In section fifty-eight, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act IV of 1866.	The Calcutta Police Act, 1866.	Sections twenty-two, twenty-three, twenty-four, twenty-six, twenty-seven, twenty-eight, thirty, thirty-one, sixty-nine, seventy-three, eighty-two to ninety-four (both inclusive), ninety-six to ninety-eight (both inclusive). In section seventy-nine, the words "or to a Magistrate," "or the Magistrate," and "or Magistrate."
Bengal Act VIII of 1866.	Amending Bengal Act IV of 1866.	The whole.
Bombay Act IV of 1866.	Court of Petty Sessions, Bombay.	The whole.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

(SEE SECTION 4.)

EXPLANATORY NOTES.—*1st.*—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 70 and 71 of this Act.

3rd.—The High Court may try an offence entered in column 7 as triable by a Magistrate.

4th.—The last part of the schedule, headed "Offences against other laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

5th.—The direction in column 4 is meant to indicate to Presidency Magistrates the manner in which the discretion vested in them by sections 34 and 35 is commonly to be used.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto

CHAPTER V.—OF ABETMENT—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence intended to be abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto -	Ditto -	Ditto -	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto -	Ditto -	Ditto -	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed - -	Ditto -	Ditto -	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto -	Ditto -	Ditto -	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed - - -	Ditto -	Ditto -	Ditto -	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant -	Not bailable	Death, or transportation for life, and forfeiture of property.	High Court.
121A	Conspiring to commit certain offences against the State.	Ditto -	Ditto -	Ditto -	Transportation of life or any shorter term, or imprisonment of either description for ten years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection	Ditto -	Ditto -	Ditto -	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto -	Ditto -	Ditto -	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.

126	Committing depredation on the territories of any Power in alliance or at peace with the Queen.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 3 years and fine.	High Court or Magistrate.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the re-capture of such prisoner.	Ditto -	Ditto -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto -	Ditto -	Ditto -	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer when in the execution of his office.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
134	Abetment of such assault, if the assault is committed.	May arrest without warrant.	Warrant -	Not bailable -	Imprisonment of either description for 7 years and fine.	High Court.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
136	Harbouring such an officer, soldier or sailor, who has deserted.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons -	Ditto -	Fine of 500 rupees - -	Ditto.
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant -	Ditto -	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly -	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto
145	Joining or continuing an unlawful assembly, knowing that it has been commanded to disperse.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
147	Rioting - - - - -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
148	Rioting armed with a deadly weapon -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence -	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto -	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto -	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
	If not committed - - -	Ditto -	Summons -	Ditto -	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto -	Ditto -	Fine of 1,000 rupees - -	Ditto.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto -	Ditto -	Ditto -	Fine - - -	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
159	Or to go armed.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray - - -	Shall not arrest without warrant.	Summons -	Ditto -	Imprisonment of either description for one month, or fine of 100 rupees, or both.	Ditto.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
164	Abetment by public servant of the offences defined in the last two preceding clauses with refereuce to himself.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
168	Public servant unlawfully engaging in trade -	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 year, or fine, or both.	Magistrate.
169	Public servant unlawfully buying or bidding for property.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant - -	May arrest without warrant.	Warrant -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
	If the notice or information required respects the commission of an offence, &c.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of the Code of Criminal Procedure, or if not committed in a Court, a Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons -	Bailable -	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto -	Ditto -	Ditto -	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto -	Ditto -	Ditto -	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	Giving or fabricating false evidence in any other case.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto -	Ditto -	Not bailable -	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
	If innocent person be thereby convicted and executed.	Ditto -	Ditto -	Ditto -	Death, or as above -	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto -	Ditto -	Ditto -	The same as for the offence -	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto -	Ditto -	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	High Court or Magistrate.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto -	Ditto -	Bailable -	The same as for giving false evidence	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.
200	Using as true any such declaration known to be false.	Ditto -	Ditto -	Ditto -	Ditto -	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
203	Giving false information respecting an offence committed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Ditto	Ditto.
209	False claim in a Court of Justice	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
212	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If punishable with transportation for life, or with imprisonment for 10 years.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years -	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate or by the Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 years, or fine, or both.	High Court.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, with or without fine.	High Court or Magistrate.
	If with imprisonment for less than 10 years	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine.	Magistrate.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	High Court.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
223	Escape from confinement negligently suffered by a public servant.	Ditto	Summons	Ditto	Simple imprisonment for 2 years, or fine, or both.	Magistrate.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto	Ditto	Not bailable	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If charged with a capital offence	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine.	High Court.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If under sentence of death - -	May arrest without warrant.	Warrant -	Not bailable -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for one year, or fine, or both.	Magistrate.
226	Unlawful return from transportation -	Ditto -	Ditto -	Not bailable -	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	High Court.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons -	Ditto -	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto -	Ditto -	Bailable -	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in chapter XXXII of the Code of Criminal Procedure.
229	Personation of a juror or assessor - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant -	Not bailable -	Imprisonment of either description for 7 years and fine.	High Court.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto -	Ditto -	Ditto -	Transportation for life or imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If Queen's coin - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto -	Ditto -	Ditto -	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.

4 p

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	May arrest without warrant.	Warrant -	Not bailable-	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
240	The same with respect to the Queen's coin -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
	Persons employed in a mint causing coin to be of a different weight or composition from that fixed by law.	Ditto -	Ditto -	Ditto -	Ditto - -	High Court.
245	Unlawfully taking from a mint any coining instrument.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 5 years and fine.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*concluded.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate.
255	Counterfeiting a Government stamp.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 10 years and fine.	High Court.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
258	Sale of counterfeit Government stamp -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto -	Ditto -	Ditto -	Ditto - - -	High Court or Magistrate.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
263	Erasure of mark denoting that stamp has been used.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
265	Fraudulent use of false weight or measure -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
271	Knowingly disobeying any quarantine-rule.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine, or both.	Magistrate.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
278	Making atmosphere noxious to health	Shall not arrest without warrant.	Ditto	Ditto	Fine of 500 rupees	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
281	Exhibition of a false light, mark, or buoy	Ditto	Warrant	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto	Ditto	Ditto	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
286	So dealing with any explosive substance	Ditto	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*concluded.*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
290	Committing a public nuisance	Shall not arrest without warrant.	Ditto	Ditto	Fine of 200 rupees	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Ditto.
292	Sale, &c., of obscene books, &c.	Ditto	Warrant	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery-office	Shall not arrest without warrant.	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
	Publishing proposals relating to lotteries	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant	Not bailable.	Death, transportation for life and fine	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Offences affecting life—concluded.

1. Section.	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
303	Murder by a person under sentence of transportation for life.	May arrest without warrant.	Warrant	Not bailable.	Death	High Court.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act	Ditto	Ditto	Bailable	Imprisonment of either description for two years, or fine, or both.	High Court or Magistrate.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto	Ditto	Not bailable	Death, or transportation for life, or imprisonment for 10 years and fine	High Court.
306	Abetting the commission of suicide	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
308	Attempt to commit culpable homicide	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, and fine.	Magistrate.
311	Being a thug	Ditto	Ditto	Not bailable	Transportation for life and fine.	High Court.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court.
	If the woman be quick with child	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
317	Exposure of a child under twelve years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 7 years, or fine, or both.	High Court.
318	Concealment of birth by secret disposal of dead body.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	High Court or Magistrate.
			Of Hurt.			
323	Voluntarily causing hurt - -	May arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
325	Voluntarily causing grievous hurt -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto -	Ditto -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto -	Warrant -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court.
328	Administering stupefying drug with intent to cause hurt.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto -	Ditto -	Not bailable -	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto -	Ditto -	Not bailable -	Imprisonment of either description for 10 years and fine.	High Court.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto -	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Hurt—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	High Court or Magistrate.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Ditto.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.
	Of wrongful Restraint and wrongful Confinement.					
341	Wrongfully restraining any person	May arrest without warrant.	Summons	Bailable	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate.
342	Wrongfully confining any person	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
343	Wrongfully confining for three or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Criminal Force and Assault.					
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*continued.*

Of Criminal Force and Assault—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 2 years, or fine, or both	Magistrate.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant -	Not bailable	Ditto - - -	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons -	Ditto -	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping - - - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
364	Kidnapping or abducting in order to murder -	Ditto -	Ditto -	Ditto -	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto -	Ditto -	Ditto -	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave -	Shall not arrest without warrant.	Ditto -	Bailable -	Ditto - - -	Ditto.
371	Habitual dealing in slaves - -	May arrest without warrant.	Ditto -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	High Court or Magistrate.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
374	Unlawful compulsory labour - -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

Of Rape.

376	Rape - - - -	May arrest without warrant.	Warrant -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*concluded.*

Of Unnatural Offences.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
377	Unnatural offences - -	May arrest without warrant.	Warrant -	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft - - - - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	Magistrate.
380	Theft in a building, tent or vessel -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto	Ditto -	Ditto -	Ditto - - -	High Court or Magistrate.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto -	Ditto -	Ditto -	Rigorous imprisonment for 10 years and fine.	High Court.

Of Extortion.

384	Extortion - - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto -	Ditto -	Not bailable.	Imprisonment of either description for 10 years and fine.	High Court.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence: punishable with death, transportation for life, or imprisonment for 10 years.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto -	Ditto -	Ditto -	Transportation for life -	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Shall not arrest without warrant.	Warrant	Not bailable.	Imprisonment of either description for 10 years and fine.	High Court.
	If the offence be an unnatural offence	Ditto	Ditto	Ditto	Transportation for life	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant	Not bailable.	Rigorous imprisonment for 10 years and fine.	High Court or Magistrate.
	If committed on the highway between sunset and sunrise.	Ditto	Ditto	Ditto	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	Ditto	Ditto	Ditto	Ditto	High Court.
396	Murder in dacoity	Ditto	Ditto	Ditto	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto	Ditto	Ditto	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto	Ditto.
399	Making preparation to commit dacoity	Ditto	Ditto	Ditto	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Transportation for life, or as above	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If by clerk or person employed by deceased	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Criminal Breach of Trust.

1 Section.	2 Offence.	Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
406	Criminal breach of trust - -	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
408	Criminal breach of trust by a clerk or servant.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c.	Shall not arrest without warrant.	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto -	Ditto -	Ditto -	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
413	Habitually dealing in stolen property -	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

Of Cheating.

417	Cheating - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
419	Cheating by personation - -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Fraudulent Deeds and Dispositions of Property—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Shall not arrest without warrant.	Warrant	Bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto	Ditto.
	Of Mischief.					
426	Mischief	Shall not arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine, or both.	Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	High Court or Magistrate.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	High Court.
436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons burden.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

4 a

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*continued.*

Of Mischief—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
438	The mischief described in the last section, when committed by fire or any explosive substance.	May arrest without warrant.	Warrant	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
439	Running vessel ashore with intent to commit theft, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
	Of Criminal Trespass.					
447	Criminal trespass	May arrest without warrant.	Summons	Bailable	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Magistrate.
448	House-trespass	Ditto	Warrant	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto	Ditto	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	High Court.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	Imprisonment of either description for 2 years and fine.	Magistrate.
	If the offence is theft	Ditto	Ditto	Not bailable	Imprisonment of either description for 7 years and fine.	High Court or Magistrate.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
453	Lurking house-trespass or house-breaking	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years and fine.	Magistrate.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
	If the offence is theft	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Ditto	Ditto	Ditto	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*concluded.*

Of Criminal Trespass—concluded.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant -	Not bailable-	Imprisonment of either description for 5 years and fine.	High Court or Magistrate.
	If the offence is theft - - -	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	High Court.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	High Court.
466	Forgery of a record of a Court of Justice or of a register of births, &c., kept by a public servant.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will or authority to make or transfer any public security, or to receive any money, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Ditto -	Ditto - - -	Ditto.
468	Forgery for the purpose of cheating -	Shall not arrest without warrant.	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto -	Ditto -	Ditto -	Punishment for forgery -	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto -	Not bailable	Ditto - - -	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 7 years and fine.	High Court.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
	If the document is a valuable security or will.	Ditto -	Ditto -	Ditto -	Transportation for life, or as above -	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto -	Ditto -	Ditto -	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto -	Summons -	Ditto -	Imprisonment of either description for 3 years and fine.	High Court or Magistrate.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 years, or fine, or both.	High Court or Magistrate.
488	Making use of any such false mark -	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
489	Removing, destroying, or defacing, any property-mark with intent to cause injury.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons -	Bailable -	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OF OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant -	Not bailable	Imprisonment of either description for 10 years and fine.	High Court.
494	Marrying again during the life-time of a husband or wife.	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto -	Ditto -	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery - - - -	Ditto -	Ditto -	Bailable -	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto -	Ditto -	Ditto -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation - - - -	Shall not arrest without warrant.	Warrant -	Bailable -	Simple imprisonment for 2 years, or fine, or both.	High Court or Magistrate.
501	Printing or engraving matter knowing it to be defamatory.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto -	Ditto -	Ditto -	Ditto - - -	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant -	Bailable -	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*continued.*

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Shall not arrest without warrant.	Warrant	Not bailable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate.
506	Criminal intimidation	Ditto	Ditto	Bailable	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	High Court or Magistrate.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto	Ditto	Ditto	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Ditto.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

	If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant	Not bailable	.....	High Court.
	If punishable with imprisonment for three years and upwards but less than seven.	Ditto	Ditto	Ditto	.....	High Court or Magistrate.
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons	Bailable	.....	Magistrate.
	If punishable with fine only	Ditto	Ditto	Ditto	.....	Di to.

SCHEDULE III.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 47).

To *A. B.*, of

Whereas complaint has this day been made before the undersigned Presidency Magistrate for the Town of that you on the day of 187 at (*state shortly the offence complained*) contrary to section of the Indian Penal Code [*or* of Act No. of 18 , *as the case may be*] : You are hereby required to appear in person [*or* by advocate, attorney or pleader, *as the case may be*] on the day of 187 , at o'clock in the forenoon [*or* afternoon] at the Court of before such Magistrate as may then be present, to answer to the said complaint and to be further dealt with according to law.

Dated the day of

(*Signed*) *C. D.*

Presidency Magistrate.

B.

FORM OF WARRANT OF ARREST (*section* 56).

To (*name and designation of the person who is to execute the warrant*).

Whereas of is accused of the offence of (*state the offence*) : You are hereby directed to apprehend the said and produce him at the Court of before such Magistrate as may then be present.

(*Signature.*)

Dated

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*section* 71).

To the officer in charge of the

Whereas of is accused of ( ) you are hereby required to receive the said into your custody and to produce him before by whom [*or* which] the offence of which he is accused is to be tried [*or* enquired into] from time to time when so required.

D.

FORM OF RECOGNIZANCE (*section* 72).

We, *A. B.* of , *C. D.* of and *E. F.* of , do hereby bind ourselves jointly and severally that the said *A. B.* will attend on the day of 187 at the Court of the Presidency Magistrate of and continue so to attend until otherwise directed by the said Magistrate, and will, if required, appear when called upon at the High Court of Judicature at to answer the charge of , and in case of the said *A. B.* making default herein, we the said *A. B.*, *C. D.* and *E. F.* bind ourselves jointly and severally to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signatures.*)

Dated the day of 187 .

E.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY PENDING TRIAL BEFORE THE HIGH COURT (*section* 89).

To , the officer in charge of the Jail.

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*) and has been committed to take his trial before the Court of

You are hereby required to receive the said into your custody and to produce him before the said Court when so required.

(*Signature.*)

(*Office and powers.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*sections* 93, 140).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be*, to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF WARRANT OF COMMITMENT AFTER SENTENCE (*section* 184).

To , the officer in charge of the Jail.

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and section*), and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*) : You are hereby required to receive the said into your custody in the said jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated day of

H.

FORM OF RECOGNIZANCE TO KEEP THE PEACE (*section* 222).

Whereas I, *A. B.* [*or* we, *A. B.*, *C. D.*, *etc.*], of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself [*or* each of us hereby binds himself] not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my [*or* any of us] making default therein, I bind myself [*or* he binds himself] to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE RECOGNIZANCE OF THE PRINCIPAL.

I, *E. F.* of , hereby declare myself surety for the abovementioned *A. B.*, that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

I.

FORM OF RECOGNIZANCE FOR GOOD BEHAVIOUR (*section* 222).

Whereas I, , inhabitant of , have been called upon to enter into a bond to be of good behaviour to Her Majesty and to all Her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty, and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the abovesaid , that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty, her heirs and successors the sum of rupees.

(*Signature.*)

Dated

CHARGES.

(*See section* 97.)

(1).—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows :—

(*b*). That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the High Court.

On Penal Code, section 121.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature of the Magistrate.*]

[*To be substituted for* (*b*).]

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the High Court.

On section 124.

(3). That you, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the High Court.

On section 161.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On section 304.

(5.) That you, on or about the day of , at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the High Court.

On section 306.

(6.) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the High Court.

On section 325.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the High Court.

On section 392.

(8.) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the High Court.

On section 395.

(9.) That you, on or about the day of , at , did (*or* omitted to do, *as the case may be*) , such conduct being contrary to the provisions of Act , section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the High Court.

On section 166.

(10.) That you, on or about the day of at , in the course of the trial of before stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

On section 193.

[*In cases tried by Magistrates, substitute* " within my cognizance " *for* " within the cognizance of

the High Court." *In* (*c*), *omit* "by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a*.) I, [*name and office of Magistrate, &c.*], hereby charge you, [*name of accused person*], as follows:—

On Penal Code, sections 241 and 242.

(*b*.) *First*.—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the High Court.

(*c*.) And I hereby commit you to the said Court to be tried on the said charges.

[*Signature of the Magistrate.*]

On sections 302 and 304.

For (*b*). *First*.—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the High Court.

On sections 379 and 382.

For (*b*). *First*.—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the High Court.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the High Court.

ALTERNATIVE CHARGES.

Alternative charges on section 193.

For (*b*). That you, on or about the day of , at , in the course of the inquiry into before , stated in evidence that "

and that you, on or about the day of , at in the course of the trial of before " , stated in evidence that ," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the High Court.

In trials before Magistrates, substitute, "within my cognizance," *for* "within the cognizance of the High Court," *and omit* "by the said Court."

WHITLEY STOKES,
Secretary to the Govt. of India.

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th March 1877, and is hereby promulgated for general information:—

ACT NO. V OF 1877.

THE STRAITS SETTLEMENTS EMIGRATION ACT, 1877.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTION.
1. Short title.
Local extent.
Commencement.
2. Interpretation-clause.
3. From what port emigration lawful.

II.—EMIGRATION AGENT.

4. Appointment of Emigration Agents.

III.—PROTECTORS OF EMIGRANTS.

5. Appointment of Protector of Emigrants.
6. General duties of Protector.
Inspection of vessels with return emigrants.

IV.—EMIGRATION DEPÔT.

7. Establishment and licensing of depôt.
Fee for license.
8. Inspection by Protector.
Agent and his subordinates to afford facilities for inspection.
9. Supply of medical aid and comforts.

V.—RECRUITERS OF LABOURERS.

10. Protector to license recruiters.
11. Duration and cancelment of license.
12. Form of license.
Fee for license.
13. Recruiter to obtain Magistrate's countersignature to license.

VI.—CONTRACTS WITH EMIGRANTS.

14. Conditions of validity of emigration contracts.
15. Contents of such contracts.
16. Certain agreements declared void.
17. Medical examination of intending emigrants.
Dependents.
Form of certificates.
18. Emigrant to appear before Magistrate, and be examined.
Registration when to be refused.
19. Examination of dependents.
20. Copies of registered matters.
21. Copy of entry in register to be sent to Emigration Agent and Protector.
22. Registration.
23. Fee for registration.

VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

24. Arrival at depôt to be reported.
25. Duty of Emigration Agent on arrival of emigrants.

SECTION.
26. Countersignature of register.
Grant of embarkation-pass.
27. When the emigrant to be sent back to the place of registration.
Payment of expenses of sending him back.
28. Payment of expenses of dependent accompanying emigrant.
29. Effect of such dependent's unfitness from ill-health to return to Straits.
30. Compensation to emigrant or dependent for ill-treatment on journey to depôt.
31. Failure of Emigration Agent, &c., to pay such expenses.
32. Suits against Emigration Agent for breach of contract.

VIII.—EMIGRANT VESSELS.

33. Emigrants not to be received on board vessels other than those licensed under Native Passengers Act,
or without certificate from Protector.
Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.
34. Emigrant to give his pass to Master.
35. Emigration Agent to be present at embarkation.
36. Master to deliver list of emigrants.

IX.—SUPPLEMENTARY POWERS.

37. Power to prohibit emigration to the Straits Settlements.
38. Revocation of prohibition.

X.—OFFENCES.

39. Making unlawful contract of labour.
Recruiting without being licensed.
Recruiter omitting to take engaged labourers before Magistrate or Protector.
40. Use of force, fraud, &c., to cause a Native to emigrate.
41. False representation of Government authority.
42. Receiving emigrants on board without license or certificate.
43. Failure to comply with requirements of sections 34 and 36.
44. Penalty for landing emigrant or dependent at other than specified port.
45. Taking on board, after clearance, emigrants not entered in list.
46. Prosecutions under this Act by whom to be instituted.
47. Customs officers may search and detain for purposes of this Act.

XI.—MISCELLANEOUS.

48. Act not to apply to certain vessels,
49. or to contracts with Native seamen and menial servants.
50. Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.
51. Indian Emigration Act, 1871, not to apply to Straits Settlement.
52. Repeal of Act XIV of 1872.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

An Act to regulate the Emigration of Native Labourers from the Presidency of Fort Saint George to the Straits Settlements.

WHEREAS it is expedient to regulate emigration under engagements to labour from the Presidency of Fort Saint George to the Straits Settlements; It is hereby enacted as follows :—

Preamble.

I.—PRELIMINARY.

Short title.

I. This Act may be called "The Straits Settlements Emigration Act, 1877:"

Local extent.

It extends only to the territories under the government of the Governor of Fort Saint George in Council;

Commencement.

And it shall come into force on such date as the Governor of Fort St. George in Council, with the previous sanction of the Governor General in Council, may, by notification in the *Fort St. George Gazette*, direct.

Interpretation-clause.

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

"Emigrate" denotes the departure of any Native of India out of the said territories, under an engagement to labour in the said Settlements :

"Emigrate."

"Emigrant" means a person who "emigrates" within the meaning of the above definition :

"Emigrant."

"Magistrate" means a Magistrate of a District, a Magistrate of a division of a district, or any other person appointed by the Governor of Fort St. George in Council to perform the functions of a Magistrate under this Act :

"Magistrate."

"Vessel" includes anything made for the conveyance by water of human beings or property.

"Vessel."

From what port emigration lawful.

3. It shall not be lawful to emigrate except from such ports as may from time to time be declared by the Governor of Fort St. George in Council, by a notification in the *Fort Saint George Gazette*, to be ports from which emigration under this Act shall be lawful.

The Local Government may, at any time, by a like notification, revoke any such notification.

II.—EMIGRATION AGENTS.

Appointment of Emigration Agents.

4. The Government of the Straits Settlements may, from time to time, appoint such persons as the Governor of Fort St. George in Council approves, to act as Emigration Agents at such ports as aforesaid.

Any Emigration Agent so appointed may be suspended or removed by the Government of the Straits Settlements.

III.—PROTECTORS OF EMIGRANTS.

Appointment of Protector of Emigrants.

5. The Governor of Fort St. George in Council shall direct such persons as he thinks fit to act as Protectors of Emigrants under this Act at such ports and for such local areas as may be assigned to them respectively, and may, with the sanction of the Governor General in Council, assign to such persons such establishment as the Governor of Fort St. George in Council thinks fit.

General duties of Protector.

6. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, protect and aid all emigrants with his advice or otherwise, and cause all the provisions of this Act to be duly complied with.

Inspection of vessels with return emigrants.

He may also inspect on arrival all vessels bringing return emigrants to the port at which he is Protector, and inquire into the treatment received by such emigrants both during the period of their service in the Straits Settlements and also during the voyage, and shall make a report thereon to the Governor of Fort St. George in Council.

Such Protector shall also aid and advise such return emigrants, so far as he reasonably can, when called upon by them to do so.

IV.—EMIGRATION DEPÔT.

Establishment and licensing of depôt.

7. Every Emigration Agent shall establish a suitable depôt for emigrants at the port at which he is Agent. Such depôt may be licensed by the local Protector of Emigrants after being inspected and approved of by him.

Fee for license.

For every such license the Emigration Agent shall pay to the Protector of Emigrants a fee of fifteen rupees.

Inspection by Protector.

8. The Protector of Emigrants may, at any time, examine into the state of the depôt and the manner in which the emigrants are therein lodged, fed, clothed and otherwise provided for and attended to, and shall do so at least once a year.

And he may at any time cancel the license, if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or if the local Emigration Agent fails to comply with any of the requirements of this Act.

Agent and his subordinates to afford facilities for inspection.

The Emigration Agent and all persons in charge of, or employed in, the depôt, shall give the Protector every facility for making such inspections as he may deem necessary or proper, and shall afford him all such information respecting the depôt and the emigrants as he may require.

Supply of medical aid and comforts.

9. The Emigration Agent shall provide at the depôt such medical aid and comforts as the Protector may from time to time direct.

V.—RECRUITERS OF LABOURERS.

Protector to license recruiters.

10. Each Protector of Emigrants shall license so many fit persons as he deems necessary, to be recruiters of labourers for the Straits Settlements; and no person shall engage or attempt to engage any Native of India to emigrate, or shall otherwise act or be employed as a recruiter of labourers, except under a license from a Protector of Emigrants.

Duration and cancelment of license.

11. No such license shall be in force for a longer period than one year; and in case of misconduct on the part of any recruiter, the Protector of Emigrants who granted it may cancel his license before the expiration of the period for which it was granted.

Form of license.

12. Every such license shall specify the local limits within which the person licensed may recruit labourers, and shall be in the form set forth in the first schedule hereto annexed.

Fee for license.

For every such license the recruiter shall pay to the Protector a fee of five rupees.

Recruiter to obtain Magistrate's countersignature to license.

13. No recruiter shall engage, or attempt to engage, labourers in any district without having first exhibited his license to a Magistrate in such district, and obtained the countersignature of such Magistrate thereupon.

No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself, by such enquiry as he thinks fit, that the licensee is not by character or from any other cause unfitted to be a recruiter under this Act.

If any Magistrate who has countersigned a license afterwards finds reason to think that the licensee is by character or other cause unfitted to be a recruiter under this Act, he may require the licensee to produce the license and may cancel his signature; or he may, if he thinks fit, impound the license and send it to the Emigration Agent for cancellation.

Every Magistrate refusing to countersign a recruiter's license or cancelling his signature as aforesaid, shall, without delay, report his refusal or cancellation and the grounds of it to the Protector of Emigrants who has authority to cancel the recruiter's license.

VI.—CONTRACTS WITH EMIGRANTS.

Conditions of validity of emigration contracts.

14. No contract made by a recruiter with a Native of India to emigrate shall be enforceable by the recruiter or his principal unless it—

(*a*) is expressed in writing;

(*b*) is executed by the recruiter on behalf of some principal in the Straits Settlements;

(*c*) states the terms, if any, agreed on as to the redemption of the recruit's engagement for employment, or of the unexpired term of such engagement;

(*d*) the term of the recruit's employment, the nature of the services to be performed by him, and the rate of wages to be paid in respect of the same are registered in the manner provided in section eighteen.

But nothing contained in this section shall be deemed to prevent such Native from insisting, if he thinks fit, that such contract shall be performed.

Contents of such contracts.

15. Every such contract shall—

(*a*) contain an engagement for employment to be provided by such principal for a definite term not exceeding three years; and

(*b*) specify the nature of the services to be performed by such recruit and the rates of wages (not less than twelve cents a day for an able-bodied male adult) payable in respect of the same.

Certain agreements declared void.

16. Save as provided by section fourteen, clause (*c*), every agreement entered into by a Native of India in the territories subject to the Governor of Fort Saint George in Council, to pay money to any person in the Straits Settlements, in consideration of pecuniary or other assistance given to such Native to emigrate, shall be illegal and void.

Every contract not containing the particulars required by section fifteen shall be illegal and void.

Medical examination of intending emigrants.

17. Every recruit who has entered into such a contract as aforesaid shall be brought by the recruiter before the Civil Surgeon of the district or such other medical officer as the Local Government appoints in this behalf or, in default of such appointment, before such medical officer as the Magistrate directs.

The medical officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to the Straits Settlements and to work there.

Dependents.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the medical officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to the Straits Settlements; and the medical officer shall examine such persons and shall give or refuse certificates according to his opinion as to their fitness and ability.

Form of certificates.

Certificates shall be in the form set forth in the second schedule hereto annexed; and the recruiter shall pay to the medical officer such fee for each person so examined as the Local Government may from time to time prescribe.

Emigrant to appear before Magistrate, and be examined.

18. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district within which the contract with the recruit was entered into.

The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract.

If it appears on such examination that the recruit understands the nature of the contract he has entered into, and that he is willing to fulfil the same, the Magistrate shall register

(*a*) the name, the father's name and the age of such recruit :

(*b*) the name of the village or place in which he resides :

(*c*) the port of embarkation to which it is intended he shall proceed :

(*d*) the name of his employer :

(*e*) the term of his employment, the nature of the services to be performed by him and the rate of wages to be paid in respect of the same.

The recruit shall thereupon be deemed an emigrant under this Act.

If the Magistrate thinks that the recruit does not understand the nature of the contract into which he has entered, or has been induced to enter into it by fraud or misrepresentation, or finds that the contract is not in accordance with section fifteen, he shall refuse to register the particulars specified as aforesaid, and record his reasons for such refusal.

Registration when to be refused.

19. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

Examination of dependents.

If the Magistrate is satisfied that such dependence and willingness exist, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt the existence of such dependence or willingness, he may refuse to register the alleged dependent, and, if so, shall record his reasons for such refusal.

20. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections 18 and 19.

Copies of registered matters.

21. A copy of every entry made in the registry book by a Magistrate, shall be forthwith forwarded by such Magistrate to the Emigration Agent and to the Protector of Emigrants.

Copy of entry in register to be sent to Emigration Agent and Protector.

22. The registration required by sections 18 and 19 shall, in the case of emigrants recruited in any local area for which a Protector of Emigrants has been appointed, be effected before him instead of a Magistrate; and such Protector shall furnish to the emigrant one copy of the matters so registered, and another copy of the same matters to the Emigration Agent.

Registration.

23. For the registration of every recruit under section 18, the recruiter shall pay to the Magistrate or to the Protector of Emigrants, as the case may be, such fee not exceeding one rupee, as may be from time to time directed by the Local Government.

Fee for registration.

VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

24. The arrival of each emigrant at the depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Arrival at depôt to be reported.

The Emigration Agent may institute such examination of the emigrants as he thinks fit in order to satisfy himself of their fitness to emigrate.

25. The Protector of Emigrants shall, within forty-eight hours after the arrival at the depôt of each emigrant not registered by himself, question such emigrant as to the mode in which he has been treated on his journey to the depôt, and shall at the same time examine the emigrant's contract and the copy of the register furnished to him under section 20.

Duty of Emigration Agent on arrival of emigrants.

If, for any reason, further inquiry is necessary, he shall make such enquiry forthwith.

26. If in the opinion of the Protector of Emigrants the examination and enquiry made under section 25 disclose no valid reason against the fulfilment of the contract, and the emigrant has not become physically unfit for emigration, the Protector and the Emigration Agent shall countersign the emigrant's copy of the register and the Emigration Agent shall make out and deliver to the emigrant an embarkation-pass signed by the Emigration Agent, and countersigned by the Protector, stating the name and the age of the emigrant and the name of his father, certifying that he has been duly registered for emigration to the Straits Settlements and mentioning the port of debarkation.

Contersignature of register.

Grant of embarkation pass.

27. If the Protector of Emigrants considers that any emigrant is physically unfit to emigrate, and that he has not dishonestly represented himself as physically fit;

When the emigrant to be sent back to the place of registration.

or that any such irregularity has occurred in the recruitment of any such emigrant, as makes it just to vacate the contract;

or if the Emigration Agent refuses without the consent of the Protector to countersign the emigrant's copy of the register as required by section 26, or to be bound by the contract;

the Protector of Emigrants may order the Emigration Agent, or the recruiter with whom the contract was made, forthwith to pay to him such reasonable sum as is necessary to enable such emigrant to return to the place where his name was registered under section 18; and may take any steps he thinks necessary for the conveyance of such emigrant to such place;

Payment of expenses of sending him back.

and any emigrant who from his state of health is in the opinion of the Protector of Emigrants physically unfit to undertake such return, shall be entitled to be fed, lodged and attended to at the port of embarkation at the expense of the Emigration Agent until he is reported by the Protector of Emigrants fit to undertake such return to such place.

28. If a dependent has accompanied such emigrant, the Protector of Emigrants may order the Emigration Agent or recruiter to pay such sum as is necessary to enable him to return to the place at which his name was registered under section 19, as well as to feed or lodge him during the detention (if any) of the emigrant at the depôt.

Payment of expenses of dependent accompanying emigrant.

29. If the Protector of Emigrants has reason to think that any dependent is in such a state of health that his journey to the Straits Settlements, or his detention in the depôt, would be dangerous to himself or others, he shall so certify to the Emigration Agent, and thereupon

Effect of such dependent's unfitness from ill-health to return to Straits.

the emigrant to whom such dependent is attached shall be entitled, if he so wishes, to return as if he himself had been found under section 27 to be physically unfit to emigrate.

If the emigrant still desires to emigrate, then the dependent shall be kept and returned to the place at which he was registered as if he were an emigrant falling under section 27.

30. If upon the arrival of any emigrant or dependent at the depôt, it appear that, during the journey thither, he has suffered any ill-treatment, or the recruiter has failed to provide him with proper and sufficient food and lodging, the Protector of Emigrants may order the Emigration Agent to pay him a reasonable sum by way of compensation.

Compensation to emigrant or dependent for ill-treatment on journey to depôt.

31. On failure of the Emigration Agent or of such recruiter for twenty-four hours to comply with an order of the Protector for the payment of any sum, ordered to be paid under any of the four last preceding sections, the Protector may pay the same to, or on behalf of, the emigrant.

Failure of Emigration Agent, &c., to pay such expenses.

Every sum so paid shall be recoverable by the Protector, with six per cent. per annum interest from the date of payment, from the Emigration Agent, or from such recruiter.

No further proof shall be required by any Court in any such case than that the Protector gave such Emigration Agent or recruiter an order to pay such money, and that the Emigration Agent or recruiter for a space of twenty-four hours made default in complying therewith.

32. Whenever the Emigration Agent refuses, without the consent of the Protector, to countersign an emigrant's copy of the register as required by section 26, or is chargeable with a breach of any duty which any contract with an emigrant expressly or by implication imposes upon him, the Protector may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of damages for the breach of such contract.

Suits against Emigration Agent for breach of contract.

In every such suit the contract entered into by the recruiter shall be deemed to have been entered into by, and to be binding on, the Emigration Agent.

VIII.—EMIGRANT VESSELS.

33. No Master or other person in charge of a vessel shall receive on board any emigrant unless such vessel has been licensed, under the law for the time being in force relating to the carriage by sea of Native passengers, to carry passengers for the intended voyage and unless the Master of such vessel has obtained a certificate from the Protector of Emigrants authorizing him to receive on board the number of emigrants specified therein.

Emigrants not to be received on board vessels other than those licensed under Native Passengers Act.

or without certificate from Protector.

No such certificate shall be granted by the Protector of Emigrants unless he has satisfied himself that the vessel has been licensed as aforesaid, and that provisions and water for the number of emigrants to be specified in the certificate according to the scale prescribed under such law have been actually put on board such vessel.

Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.

34. On embarkation, every emigrant shall deliver to the Master of the vessel the embarkation pass granted to him under section 26, and the Master shall not receive any emigrant on board unless he delivers up such pass.

Emigrant to give his pass to Master.

35. The Emigration Agent shall be personally present at the embarkation of all emigrants, and shall see that the Master duly examines the passes of the emigrants, and shall himself also examine such passes.

Emigration Agent to be present at embarkation.

The Emigration Agent shall not permit any emigrant to remain on board who has not a pass.

36. The Master of every vessel carrying emigrants shall, after the embarkation of the emigrants, and before the departure of the vessel, give to the Emigration Agent a list of all emigrants on board, signed by himself and mentioning the port of debarkation, and shall retain a counterpart of such list signed by the Emigration Agent.

Master to deliver list of emigrants.

A copy of such list signed by the Emigration Agent and Master shall be sent to the Protector of Emigrants before the vessel sails.

IX.—SUPPLEMENTARY POWERS.

37. Whenever the Governor General in Council has reason to believe that proper measures have not been taken for the protection of emigrants and the enforcement of the engagements entered into with them immediately upon their arrival at the Straits Settlements, or during their residence therein, the Governor General in Council may, by a notification published in the *Gazette of India*, declare that emigration under this Act to the said Settlements shall cease from a day to be specified in such notification.

Power to prohibit emigration to the Straits Settlements.

When any notification has been published under this section, emigration under this Act and the making of contracts to emigrate to the Straits Settlements shall be unlawful from the day specified in such notification.

38. Such notification may be revoked in like manner by the Governor General in Council, and thereupon emigration to the said Settlements shall again be allowed from a day to be specified in the revocation.

Revocation of prohibition.

From the day so specified all the provisions of this Act authorizing emigration to the said Settlements shall be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced, during the time of such suspension.

X.—OFFENCES.

39. Whoever, except under and in conformity with the provisions of this Act, engages or attempts to engage any Native of India to emigrate,

Making unlawful contract of labour.

or whoever engages, or attempts to engage, any Native of India to enter into any such contract as is hereby declared illegal,

or, not being a recruiter duly licensed under this Act, acts or is employed as a recruiter of labourers for the Straits Settlements,

Recruiting without being licensed.

or being a recruiter duly licensed under this Act, removes or attempts to remove any person whom he engages in any district from such district until the particulars required by section 18 have been duly registered,

Recruiter omitting to take engaged labourers before Magistrate or Protector.

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

40. Whoever, by means of intoxication, violence, fraud, or false pretences, causes or induces or attempts to cause or induce any Native of India to emigrate or to enter into any contract to emigrate, or into any such contract as is hereby declared illegal, or to proceed to the said Settlements without having entered into any contract, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and any police-officer may for such offence arrest him without warrant.

Use of force, fraud, &c., to cause a Native to emigrate.

41. Whoever, without lawful authority, issues any written order to the police to assist himself or any other person to procure labourers to proceed to the said Settlements, or falsely represents that such labourers are required by the Government, or are to be engaged on behalf of the Government, shall be liable to imprisonment for a term not exceeding six months, or to fine not exceeding five hundred rupees, or to both.

False representation of Government authority.

42. Any Master of a vessel not licensed as provided in section thirty-three who knowingly receives on board, for conveyance to the said Settlements, any emigrant or person who has entered into a contract hereby declared illegal,

Receiving emigrants on board without license or certificate.

and any Master of a vessel licensed as aforesaid, who knowingly receives any emigrant as aforesaid without having previously obtained a certificate under the said section, or in excess of the number specified in such certificate,

shall be liable for each emigrant or person so received to imprisonment for a term which may extend to three months, or to fine not exceeding two hundred rupees, or to both, and the vessel shall be liable to be forfeited.

43. Any Master of a vessel who receives on board such vessel any emigrant for the said Settlements and fails to comply with the requirements of sections 34 and 36, shall be liable to a fine not exceeding two hundred rupees.

Failure to comply with requirements of sections 34 and 36.

44. Any Master of a vessel landing any emigrant or dependent at any port other than the port of debarkation specified in embarkation-pass and list, unless in case of stress of weather or other unavoidable accident, shall be liable for every emigrant or dependent so landed to a fine not exceeding two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for landing emigrant or dependent at other than specified port.

45. Any Master of a vessel who having cleared such vessel for the said Settlements, takes on board any emigrant not entered in the list mentioned in section 36, shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.

Taking on board, after clearance, emigrants not entered in list.

46. All prosecutions under sections 42, 43, 44 and 45 shall be instituted by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government.

Prosecutions under this Act by whom to be instituted.

47. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention and detection of the illegal embarkation of emigrants on board vessels bound for the said Settlements and of other offences against this Act.

Customs officers may search and detain for purposes of this Act.

XI.—MISCELLANEOUS.

48. Nothing in this Act shall apply to any vessels in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act not to apply to certain vessels,

49. Nothing in this Act shall apply to any contract with, or the emigration of, any Native seaman, or other person who of his own free will contracts to navigate or serve on board of any vessel, or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only and who embarks as such menial servant.

or to contracts with Native seamen and menial servants.

50. The Emigration Agent and all persons employed by him and the Protector of Emigrants shall be deemed to be public servants within the meaning of the Indian Penal Code.

Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.

51. The Indian Emigration Act, 1871, shall not apply to the Straits Settlements, unless and until the Governor General in Council, by notification in the *Gazette of India*, declares it so to apply.

Indian Emigration Act, 1871, not to apply to Straits Settlements.

52. Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871*) is hereby repealed.

Repeal of Act XIV of 1872.

THE FIRST SCHEDULE.

(*See section* 12.)

Office of the Protector of Emigrants at the Port of

A. B. described in the Roll annexed is hereby licensed under the Straits Settlements Emigration Act, 1877, to be a recruiter of labourers.

[*Here set out the local limits within which the recruiter is licensed to act.*]

This license will be in force until the day of , unless previously cancelled.

(Sd.) *C. D.*,
Protector of Emigrants.

Dated the day of

Descriptive Roll.

Name.	Father's name.	Age. Years.	Age. Months.	Caste.	Colour.	Height. Feet.	Height. Inches.	Distinguishing marks.	Name of village and district to which he belongs.

THE SECOND SCHEDULE.

(*See section* 17.)

I hereby certify that I have this day examined *A. B.*, and that he is, to the best of my belief and judgment, in a fit state of health, and able, in point of physical condition, to proceed to the Straits Settlements [and to work there*].

(Sd.) *C. D.*,

(*Here add designation of examining officer.*)

* These words to be omitted in case of women and children not engaging for labour.

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

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 14th March 1877, and is hereby promulgated for general information:—

ACT NO. VI OF 1877.

An Act for postponing the day on which the Opium Act, 1876, is to come into force.

WHEREAS the Opium Act, No. XXIII of 1876, section one, enacts that the said Act shall come into force on the first day of April 1877: And whereas it is expedient to postpone the day on which such Act shall come into force; It is hereby enacted as follows:—

Preamble.

1. The said Act No. XXIII of 1876 shall come into force, not on the first day of April 1877, but on such day as the Governor General in Council may, by notification in the *Gazette of India*, direct in this behalf.

Opium Act when to take effect.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th March 1877, and is hereby promulgated for general information :—

ACT No. V OF 1877.

THE STRAITS SETTLEMENTS EMIGRATION ACT, 1877.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTION.

1. Short title.
   Local extent.
   Commencement.
2. Interpretation-clause.
3. From what port emigration lawful.

II.—EMIGRATION AGENT.

4. Appointment of Emigration Agents.

III.—PROTECTORS OF EMIGRANTS.

5. Appointment of Protector of Emigrants.
6. General duties of Protector.
   Inspection of vessels with return emigrants.

IV.—EMIGRATION DEPÔT.

7. Establishment and licensing of depôt.
   Fee for license.
8. Inspection by Protector.
   Agent and his subordinates to afford facilities for inspection.
9. Supply of medical aid and comforts.

V.—RECRUITERS OF LABOURERS.

10. Protector to license recruiters.
11. Duration and cancelment of license.
12. Form of license.
    Fee for license.
13. Recruiter to obtain Magistrate's countersignature to license.

SECTION.

VI.—CONTRACTS WITH EMIGRANTS.

14. Conditions of validity of emigration contracts.
15. Contents of such contracts.
16. Certain agreements declared void.
17. Medical examination of intending emigrants.
    Dependents.
    Form of certificates.
18. Emigrant to appear before Magistrate, and be examined.
    Registration when to be refused.
19. Examination of dependents.
20. Copies of registered matters.
21. Copy of entry in register to be sent to Emigration Agent and Protector.
22. Registration.
23. Fee for registration.

VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

24. Arrival at depôt to be reported.
25. Duty of Emigration Agent on arrival of emigrants.
26. Countersignature of register.
    Grant of embarkation-pass.
27. When the emigrant to be sent back to the place of registration.
    Payment of expenses of sending him back.
28. Payment of expenses of dependent accompanying emigrant.
29. Effect of such dependent's unfitness from ill-health to return to Straits.
30. Compensation to emigrant or dependent for ill-treatment on journey to depôt.
31. Failure of Emigration Agent, &c., to pay such expenses.
32. Suits against Emigration Agent for breach of contract.

VIII.—EMIGRANT VESSELS.

33. Emigrants not to be received on board vessels other than those licensed under Native Passengers Act,
    or without certificate from Protector.

SECTION.
Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.
34. Emigrant to give his pass to Master.
35. Emigration Agent to be present at embarkation.
36. Master to deliver list of emigrants.

IX.—SUPPLEMENTARY POWERS.

37. Power to prohibit emigration to the Straits Settlements.
38. Revocation of prohibition.

X.—OFFENCES.

39. Making unlawful contract of labour.
Recruiting without being licensed.
Recruiter omitting to take engaged labourers before Magistrate or Protector.
40. Use of force, fraud, &c., to cause a Native to emigrate.
41. False representation of Government authority.
42. Receiving emigrants on board without license or certificate.
43. Failure to comply with requirements of sections 34 and 36.
44. Penalty for landing emigrant or dependent at other than specified port.
45. Taking on board, after clearance, emigrants not entered in list.
46. Prosecutions under this Act by whom to be instituted.
47. Customs officers may search and detain for purposes of this Act.

XI.—MISCELLANEOUS.

48. Act not to apply to certain vessels,
49. or to contracts with Native seamen and menial servants.
50. Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.
51. Indian Emigration Act, 1871, not to apply to Straits Settlement.
52. Repeal of Act XIV of 1872.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

An Act to regulate the Emigration of Native Labourers from the Presidency of Fort Saint George to the Straits Settlements.

Preamble.

WHEREAS it is expedient to regulate emigration under engagements to labour from the Presidency of Fort Saint George to the Straits Settlements; It is hereby enacted as follows :—

I.—PRELIMINARY.

Short title.

I. This Act may be called "The Straits Settlements Emigration Act, 1877:"

Local extent.

It extends only to the territories under the government of the Governor of Fort Saint George in Council;

Commencement.

And it shall come into force on such date as the Governor of Fort St. George in Council, with the previous sanction of the Governor General in Council, may, by notification in the *Fort St. George Gazette* direct.

Interpretation-clause.

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

"Emigrate." "Emigrate" denotes the departure of any Native of India out of the said territories, under an engagement to labour in the said Settlements :

"Emigrant." "Emigrant" means a person who "emigrates" within the meaning of the above definition :

"Magistrate." "Magistrate" means a Magistrate of a District, a Magistrate of a division of a district, or any other person appointed by the Governor of Fort St. George in Council to perform the functions of a Magistrate under this Act :

"Vessel." "Vessel" includes anything made for the conveyance by water of human beings or property.

From what port emigration lawful.

3. It shall not be lawful to emigrate except from such ports as may from time to time be declared by the Governor of Fort St. George in Council, by a notification in the *Fort Saint George Gazette*, to be ports from which emigration under this Act shall be lawful.

The Local Government may, at any time, by a like notification, revoke any such notification.

II.—EMIGRATION AGENTS.

Appointment of Emigration Agents.

4. The Government of the Straits Settlements may, from time to time, appoint such persons as the Governor of Fort St. George in Council approves, to act as Emigration Agents at such ports as aforesaid.

Any Emigration Agent so appointed may be suspended or removed by the Government of the Straits Settlements.

III.—PROTECTORS OF EMIGRANTS.

Appointment of Protector of Emigrants.

5. The Governor of Fort St. George in Council shall direct such persons as he thinks fit to act as Protectors of Emigrants under this Act at such ports and for such local areas as may be assigned to them respectively, and may, with the sanction of the Governor General in Council, assign to such persons such establishment as the Governor of Fort St. George in Council thinks fit.

General duties of Protector.

6. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, protect and aid all emigrants with his advice or otherwise, and cause all the provisions of this Act to be duly complied with.

Inspection of vessels with return emigrants.

He may also inspect on arrival all vessels bringing return emigrants to the port at which he is Protector, and inquire into the treatment received by such emigrants both during the period of their service in the Straits Settlements and also during the voyage, and shall make a report thereon to the Governor of Fort St. George in Council.

Such Protector shall also aid and advise such return emigrants, so far as he reasonably can, when called upon by them to do so.

IV.—EMIGRATION DEPÔT.

Establishment and licensing of depôt.

7. Every Emigration Agent shall establish a suitable depôt for emigrants at the port at which he is Agent. Such depôt may be licensed by the local Protector of Emigrants after being inspected and approved of by him.

Fee for license.

For every such license the Emigration Agent shall pay to the Protector of Emigrants a fee of fifteen rupees.

Inspection by Protector.

8. The Protector of Emigrants may, at any time, examine into the state of the depôt and the manner in which the emigrants are therein lodged, fed, clothed and otherwise provided for and attended to, and shall do so at least once a year.

And he may at any time cancel the license, if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or if the local Emigration Agent fails to comply with any of the requirements of this Act.

Agent and his subordinates to afford facilities for inspection.

The Emigration Agent and all persons in charge of, or employed in, the depôt, shall give the Protector every facility for making such inspections as he may deem necessary or proper, and shall afford him all such information respecting the depôt and the emigrants as he may require.

Supply of medical aid and comforts.

9. The Emigration Agent shall provide at the depôt such medical aid and comforts as the Protector may from time to time direct.

V.—RECRUITERS OF LABOURERS.

Protector to license recruiters.

10. Each Protector of Emigrants shall license so many fit persons as he deems necessary, to be recruiters of labourers for the Straits Settlements; and no person shall engage or attempt to engage any Native of India to emigrate, or shall otherwise act or be employed as a recruiter of labourers, except under a license from a Protector of Emigrants.

Duration and cancelment of license.

11. No such license shall be in force for a longer period than one year; and in case of misconduct on the part of any recruiter, the Protector of Emigrants who granted it may cancel his license before the expiration of the period for which it was granted.

Form of license.

12. Every such license shall specify the local limits within which the person licensed may recruit labourers, and shall be in the form set forth in the first schedule hereto annexed.

Fee for license.

For every such license the recruiter shall pay to the Protector a fee of five rupees.

Recruiter to obtain Magistrate's countersignature to license.

13. No recruiter shall engage, or attempt to engage, labourers in any district without having first exhibited his license to a Magistrate in such district, and obtained the countersignature of such Magistrate thereupon.

No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself, by such enquiry as he thinks fit, that the licensee is not by character or from any other cause unfitted to be a recruiter under this Act.

If any Magistrate who has countersigned a license afterwards finds reason to think that the licensee is by character or other cause unfitted to be a recruiter under this Act, he may require the licensee to produce the license and may cancel his signature; or he may, if he thinks fit, impound the license and send it to the Emigration Agent for cancellation.

Every Magistrate refusing to countersign a recruiter's license or cancelling his signature as aforesaid, shall, without delay, report his refusal or cancellation and the grounds of it to the Protector of Emigrants who has authority to cancel the recruiter's license.

VI.—CONTRACTS WITH EMIGRANTS.

Conditions of validity of emigration contracts.

14. No contract made by a recruiter with a Native of India to emigrate shall be enforceable by the recruiter or his principal unless it—

(*a*) is expressed in writing;

(*b*) is executed by the recruiter on behalf of some principal in the Straits Settlements;

(*c*) states the terms, if any, agreed on as to the redemption of the recruit's engagement for employment, or of the unexpired term of such engagement;

(*d*) the term of the recruit's employment, the nature of the services to be performed by him, and the rate of wages to be paid in respect of the same are registered in the manner provided in section eighteen.

But nothing contained in this section shall be deemed to prevent such Native from insisting, if he thinks fit, that such contract shall be performed.

Contents of such contracts.

15. Every such contract shall—

(*a*) contain an engagement for employment to be provided by such principal for a definite term not exceeding three years; and

(*b*) specify the nature of the services to be performed by such recruit and the rates of wages (not less than twelve cents a day for an able-bodied male adult) payable in respect of the same.

Certain agreements declared void.

16. Save as provided by section fourteen, clause (*c*), every agreement entered into by a Native of India in the territories subject to the Governor of Fort Saint George in Council, to pay money to any person in the Straits Settlements, in consideration of pecuniary or other assistance given to such Native to emigrate, shall be illegal and void.

Every contract not containing the particulars required by section fifteen shall be illegal and void.

Medical examination of intending emigrants.

17. Every recruit who has entered into such a contract as aforesaid shall be brought by the recruiter before the Civil Surgeon of the district or such other medical officer as the Local Government appoints in this behalf or, in default of such appointment, before such medical officer as the Magistrate directs.

The medical officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to the Straits Settlements and to work there.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the medical officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to the Straits Settlements; and the medical officer shall examine such persons and shall give or refuse certificates according to his opinion as to their fitness and ability.

Dependents.

Certificates shall be in the form set forth in the second schedule hereto annexed; and the recruiter shall pay to the medical officer such fee for each person so examined as the Local Government may from time to time prescribe.

Form of certificates.

18. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district within which the contract with the recruit was entered into.

Emigrant to appear before Magistrate,

The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract.

and be examined.

If it appears on such examination that the recruit understands the nature of the contract he has entered into, and that he is willing to fulfil the same, the Magistrate shall register

(*a*) the name, the father's name and the age of such recruit:

(*b*) the name of the village or place in which he resides:

(*c*) the port of embarkation to which it is intended he shall proceed:

(*d*) the name of his employer:

(*e*) the term of his employment, the nature of the services to be performed by him and the rate of wages to be paid in respect of the same.

The recruit shall thereupon be deemed an emigrant under this Act.

If the Magistrate thinks that the recruit does not understand the nature of the contract into which he has entered, or has been induced to enter into it by fraud or misrepresentation, or finds that the contract is not in accordance with section fifteen, he shall refuse to register the particulars specified as aforesaid, and record his reasons for such refusal.

Registration when to be refused.

19. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

Examination of dependents.

If the Magistrate is satisfied that such dependence and willingness exist, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt the existence of such dependence or willingness, he may refuse to register the alleged dependent, and, if so, shall record his reasons for such refusal.

20. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections 18 and 19.

Copies of registered matters.

21. A copy of every entry made in the registry book by a Magistrate, shall be forthwith forwarded by such Magistrate to the Emigration Agent and to the Protector of Emigrants.

Copy of entry in register to be sent to Emigration Agent and Protector.

22. The registration required by sections 18 and 19 shall, in the case of emigrants recruited in any local area for which a Protector of Emigrants has been appointed, be effected before him instead of a Magistrate; and such Protector shall furnish to the emigrant one copy of the matters so registered, and another copy of the same matters to the Emigration Agent.

Registration.

23. For the registration of every recruit under section 18, the recruiter shall pay to the Magistrate or to the Protector of Emigrants, as the case may be, such fee not exceeding one rupee, as may be from time to time directed by the Local Government.

Fee for registration.

VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

24. The arrival of each emigrant at the depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Arrival at depôt to be reported.

The Emigration Agent may institute such examination of the emigrants as he thinks fit in order to satisfy himself of their fitness to emigrate.

25. The Protector of Emigrants shall, within forty-eight hours after the arrival at the depôt of each emigrant not registered by himself, question such emigrant as to the mode in which he has been treated on his journey to the depôt, and shall at the same time examine the emigrant's contract and the copy of the register furnished to him under section 20.

Duty of Emigration Agent on arrival of emigrants.

If, for any reason, further inquiry is necessary, he shall make such enquiry forthwith.

26. If in the opinion of the Protector of Emigrants the examination and enquiry made under section 25 disclose no valid reason against the fulfilment of the contract, and the emigrant has not become physically unfit for emigration, the Protector and the Emigration Agent shall countersign the emigrant's copy of the register and the Emigration Agent shall make out and deliver to the emigrant an embarkation-pass signed by the Emigration Agent, and countersigned by the Protector, stating the name and the age of the emigrant and the name of his father, certifying that he has been duly registered for emigration to the Straits Settlements and mentioning the port of debarkation.

Contersignature of register.

Grant of embarkation pass.

27. If the Protector of Emigrants considers that any emigrant is physically unfit to emigrate, and that he has not dishonestly represented himself as physically fit;

When the emigrant to be sent back to the place of registration.

or that any such irregularity has occurred in the recruitment of any such emigrant, as makes it just to vacate the contract;

or if the Emigration Agent refuses without the consent of the Protector to countersign the emigrant's copy of the register as required by section 26, or to be bound by the contract;

the Protector of Emigrants may order the Emigration Agent, or the recruiter with whom the contract was made, forthwith to pay to him such reasonable sum as is necessary to enable such emigrant to return to the place where his name was registered under section 18; and may take any steps he thinks necessary for the conveyance of such emigrant to such place;

Payment of expenses of sending him back.

and any emigrant who from his state of health is in the opinion of the Protector of Emigrants physically unfit to undertake such return, shall be entitled to be fed, lodged and attended to at the port of embarkation at the expense of the Emigration Agent until he is reported by the Protector of Emigrants fit to undertake such return to such place.

28. If a dependent has accompanied such emigrant, the Protector of Emigrants may order the Emigration Agent or recruiter to pay such sum as is necessary to enable him to return to the place at which his name was registered under section 19, as well as to feed or lodge him during the detention (if any) of the emigrant at the depôt.

Payment of expenses of dependent accompanying emigrant.

29. If the Protector of Emigrants has reason to think that any dependent is in such a state of health that his journey to the Straits Settlements, or his detention in the depôt, would be dangerous to himself or others, he shall so certify to the Emigration Agent, and thereupon the emigrant to whom such dependent is attached shall be entitled, if he so wishes, to return as if he himself had been found under section 27 to be physically unfit to emigrate.

Effect of such dependent's unfitness from ill-health to return to Straits.

If the emigrant still desires to emigrate, then the dependent shall be kept and returned to the place at which he was registered as if he were an emigrant falling under section 27.

30. If upon the arrival of any emigrant or dependent at the depôt, it appear that, during the journey thither, he has suffered any ill-treatment, or the recruiter has failed to provide him with proper and sufficient food and lodging, the Protector of Emigrants may order the Emigration Agent to pay him a reasonable sum by way of compensation.

Compensation to emigrant or dependent for ill-treatment on journey to depôt.

31. On failure of the Emigration Agent or of such recruiter for twenty-four hours to comply with an order of the Protector for the payment of any sum, ordered to be paid under any of the four last preceding sections, the Protector may pay the same to, or on behalf of, the emigrant.

Failure of Emigration Agent, &c., to pay such expenses.

Every sum so paid shall be recoverable by the Protector, with six per cent. per annum interest from the date of payment, from the Emigration Agent, or from such recruiter.

No further proof shall be required by any Court in any such case than that the Protector gave such Emigration Agent or recruiter an order to pay such money, and that the Emigration Agent or recruiter for a space of twenty-four hours made default in complying therewith.

32. Whenever the Emigration Agent refuses, without the consent of the Protector, to countersign an emigrant's copy of the register as required by section 26, or is chargeable with a breach of any duty which any contract with an emigrant expressly or by implication imposes upon him, the Protector may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of damages for the breach of such contract.

Suits against Emigration Agent for breach of contract.

In every such suit the contract entered into by the recruiter shall be deemed to have been entered into by, and to be binding on, the Emigration Agent.

VIII.—EMIGRANT VESSELS.

33. No Master or other person in charge of a vessel shall receive on board any emigrant unless such vessel has been licensed, under the law for the time being in force relating to the carriage by sea of Native passengers, to carry passengers for the intended voyage and unless the Master of such vessel has obtained a certificate from the Protector of Emigrants authorizing him to receive on board the number of emigrants specified therein.

Emigrants not to be received on board vessels other than those licensed under Native Passengers Act.

or without certificate from Protector.

No such certificate shall be granted by the Protector of Emigrants unless he has satisfied himself that the vessel has been licensed as aforesaid, and that provisions and water for the number of emigrants to be specified in the certificate according to the scale prescribed under such law have been actually put on board such vessel.

Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.

34. On embarkation, every emigrant shall deliver to the Master of the vessel the embarkation pass granted to him under section 26, and the Master shall not receive any emigrant on board unless he delivers up such pass.

Emigrant to give his pass to Master.

35. The Emigration Agent shall be personally present at the embarkation of all emigrants, and shall see that the Master duly examines the passes of the emigrants, and shall himself also examine such passes.

Emigration Agent to be present at embarkation.

The Emigration Agent shall not permit any emigrant to remain on board who has not a pass.

36. The Master of every vessel carrying emigrants shall, after the embarkation of the emigrants, and before the departure of the vessel, give to the Emigration Agent a list of all emigrants on board, signed by himself and mentioning the port of debarkation, and shall retain a counterpart of such list signed by the Emigration Agent.

Master to deliver list of emigrants.

A copy of such list signed by the Emigration Agent and Master shall be sent to the Protector of Emigrants before the vessel sails.

IX.—SUPPLEMENTARY POWERS.

37. Whenever the Governor General in Council has reason to believe that proper measures have not been taken for the protection of emigrants and the enforcement of the engagements entered into with them immediately upon their arrival at the Straits Settlements, or during their residence therein, the Governor General in Council may, by a notification published in the *Gazette of India*, declare that emigration under this Act to the said Settlements shall cease from a day to be specified in such notification.

Power to prohibit emigration to the Straits Settlements.

When any notification has been published under this section, emigration under this Act and the making of contracts to emigrate to the Straits Settlements shall be unlawful from the day specified in such notification.

38. Such notification may be revoked in like manner by the Governor General in Council, and thereupon emigration to the said Settlements shall again be allowed from a day to be specified in the revocation.

Revocation of prohibition.

From the day so specified all the provisions of this Act authorizing emigration to the said Settlements shall be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced, during the time of such suspension.

X.—OFFENCES.

39. Whoever, except under and in conformity with the provisions of this Act, engages or attempts to engage any Native of India to emigrate,

Making unlawful contract of labour.

or whoever engages, or attempts to engage, any Native of India to enter into any such contract as is hereby declared illegal,

or, not being a recruiter duly licensed under this Act, acts or is employed as a recruiter of labourers for the Straits Settlements,

Recruiting without being licensed.

or being a recruiter duly licensed under this Act, removes or attempts to remove any person whom he engages in any district from such district until the particulars required by section 18 have been duly registered,

Recruiter omitting to take engaged labourers before Magistrate or Protector.

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

40. Whoever, by means of intoxication, violence, fraud, or false pretences, causes or induces or attempts to cause or induce any Native of India to emigrate or to enter into any contract to emigrate, or into any such contract as is hereby declared illegal, or to proceed to the said Settlements without having entered into any contract, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and any police-officer may for such offence arrest him without warrant.

Use of force, fraud, &c., to cause a Native to emigrate.

41. Whoever, without lawful authority, issues any written order to the police to assist himself or any other person to procure labourers to proceed to the said Settlements, or falsely represents that such labourers are required by the Government, or are to be engaged on behalf of the Government, shall be liable to imprisonment for a term not exceeding six months, or to fine not exceeding five hundred rupees, or to both.

False representation of Government authority.

42. Any Master of a vessel not licensed as provided in section thirty-three who knowingly receives on board, for conveyance to the said Settlements, any emigrant or person who has entered into a contract hereby declared illegal,

Receiving emigrants on board without license or certificate.

and any Master of a vessel licensed as aforesaid, who knowingly receives any emigrant as aforesaid without having previously obtained a certificate under the said section, or in excess of the number specified in such certificate,

shall be liable for each emigrant or person so received to imprisonment for a term which may extend to three months, or to fine not exceeding two hundred rupees, or to both, and the vessel shall be liable to be forfeited.

43. Any Master of a vessel who receives on board such vessel any emigrant for the said Settlements and fails to comply with the requirements of sections 34 and 36, shall be liable to a fine not exceeding two hundred rupees.

Failure to comply with requirements of sections 34 and 36.

44. Any Master of a vessel landing any emigrant or dependent at any port other than the port of debarkation specified in embarkation-pass and list, unless in case of stress of weather or other unavoidable accident, shall be liable for every emigrant or dependent so landed to a fine not exceeding two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for landing emigrant or dependent at other than specified port.

45. Any Master of a vessel who having cleared such vessel for the said Settlements, takes on board any emigrant not entered in the list mentioned in section 36, shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.

Taking on board, after clearance, emigrants not entered in list.

46. All prosecutions under sections 42, 43, 44 and 45 shall be instituted by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government.

Prosecutions under this Act by whom to be instituted.

47. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention and detection of the illegal embarkation of emigrants on board vessels bound for the said Settlements and of other offences against this Act.

Customs officers may search and detain for purposes of this Act.

XI.—MISCELLANEOUS.

48. Nothing in this Act shall apply to any vessels in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act not to apply to certain vessels,

49. Nothing in this Act shall apply to any contract with, or the emigration of, any Native seaman, or other person who of his own free will contracts to navigate or serve on board of any vessel, or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only and who embarks as such menial servant.

or to contracts with Native seamen and menial servants.

50. The Emigration Agent and all persons employed by him and the Protector of Emigrants shall be deemed to be public servants within the meaning of the Indian Penal Code.

Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.

51 The Indian Emigration Act, 1871, shall not apply to the Straits Settlements, unless and until the Governor General in Council, by notification in the *Gazette of India*, declares it so to apply.

Indian Emigration Act, 1871, not to apply to Straits Settlements.

52. Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871*) is hereby repealed.

Repeal of Act XIV of 1872.

THE FIRST SCHEDULE.

(*See section* 12.)

Office of the Protector of Emigrants at the Port of .

A. B. described in the Roll annexed is hereby licensed under the Straits Settlements Emigration Act, 1877, to be a recruiter of labourers.

[*Here set out the local limits within which the recruiter is licensed to act.*]

This license will be in force until the day of , unless previously cancelled.

(Sd.) *C. D.*,
Protector of Emigrants.

Dated the day of

Descriptive Roll.

Name.	Father's name.	Age. Years.	Age. Months.	Caste.	Colour.	Height. Feet.	Height. Inches.	Distinguishing marks.	Name of village and district to which he belongs.

THE SECOND SCHEDULE.

(*See section* 17.)

I hereby certify that I have this day examined *A. B.*, and that he is, to the best of my belief and judgment, in a fit state of health, and able, in point of physical condition, to proceed to the Straits Settlements [and to work there*].

(Sd.) *C. D.*,

(*Here add designation of examining officer*).

* These words to be omitted in case of women and children not engaging for labour.

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

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th March 1877, and is hereby promulgated for general information:—

ACT NO. VI OF 1877.

An Act for postponing the day on which the Opium Act, 1876, is to come into force.

WHEREAS the Opium Act, No. XXIII of 1876, section one, enacts that the said Act shall come into force on the first day of April 1877: And whereas it is expedient to postpone the day on which such Act shall come into force; It is hereby enacted as follows:—

Preamble.

1. The said Act No. XXIII of 1876 shall come into force, not on the first day of April 1877, but on such day as the Governor General in Council may, by notification in the *Gazette of India*, direct in this behalf.

Opium Act when to take effect.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th March 1877, and is hereby promulgated for general information :—

ACT No. V OF 1877.

THE STRAITS SETTLEMENTS EMIGRATION ACT, 1877.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTION.

1. Short title.
   Local extent.
   Commencement.
2. Interpretation-clause.
3. From what port emigration lawful.

II.—EMIGRATION AGENT.

4. Appointment of Emigration Agents.

III.—PROTECTORS OF EMIGRANTS.

5. Appointment of Protector of Emigrants.
6. General duties of Protector.
   Inspection of vessels with return emigrants.

IV.—EMIGRATION DEPÔT.

7. Establishment and licensing of depôt.
   Fee for license.
8. Inspection by Protector.
   Agent and his subordinates to afford facilities for inspection.
9. Supply of medical aid and comforts.

V.—RECRUITERS OF LABOURERS.

10. Protector to license recruiters.
11. Duration and cancelment of license.
12. Form of license.
    Fee for license.
13. Recruiter to obtain Magistrate's countersignature to license.

SECTION.

VI.—CONTRACTS WITH EMIGRANTS.

14. Conditions of validity of emigration contracts.
15. Contents of such contracts.
16. Certain agreements declared void.
17. Medical examination of intending emigrants.
    Dependents.
    Form of certificates.
18. Emigrant to appear before Magistrate, and be examined.
    Registration when to be refused.
19. Examination of dependents.
20. Copies of registered matters.
21. Copy of entry in register to be sent to Emigration Agent and Protector.
22. Registration.
23. Fee for registration.

VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

24. Arrival at depôt to be reported.
25. Duty of Emigration Agent on arrival of emigrants.
26. Countersignature of register.
    Grant of embarkation-pass.
27. When the emigrant to be sent back to the place of registration.
    Payment of expenses of sending him back.
28. Payment of expenses of dependent accompanying emigrant.
29. Effect of such dependent's unfitness from ill-health to return to Straits.
30. Compensation to emigrant or dependent for ill-treatment on journey to depôt.
31. Failure of Emigration Agent, &c., to pay such expenses.
32. Suits against Emigration Agent for breach of contract.

VIII.—EMIGRANT VESSELS.

33. Emigrants not to be received on board vessels other than those licensed under Native Passengers Act,
    or without certificate from Protector.

SECTION.

Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.
34. Emigrant to give his pass to Master.
35. Emigration Agent to be present at embarkation.
36. Master to deliver list of emigrants.

IX.—SUPPLEMENTARY POWERS.

37. Power to prohibit emigration to the Straits Settlements.
38. Revocation of prohibition.

X.—OFFENCES.

39. Making unlawful contract of labour.
Recruiting without being licensed.
Recruiter omitting to take engaged labourers before Magistrate or Protector.
40. Use of force, fraud, &c., to cause a Native to emigrate.
41. False representation of Government authority.
42. Receiving emigrants on board without license or certificate.
43. Failure to comply with requirements of sections 34 and 36.
44. Penalty for landing emigrant or dependent at other than specified port.
45. Taking on board, after clearance, emigrants not entered in list.
46. Prosecutions under this Act by whom to be instituted.
47. Customs officers may search and detain for purposes of this Act.

XI.—MISCELLANEOUS.

48. Act not to apply to certain vessels,
49. or to contracts with Native seamen and menial servants.
50. Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.
51. Indian Emigration Act, 1871, not to apply to Straits Settlement.
52. Repeal of Act XIV of 1872.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

An Act to regulate the Emigration of Native Labourers from the Presidency of Fort Saint George to the Straits Settlements.

Preamble.

WHEREAS it is expedient to regulate emigration under engagements to labour from the Presidency of Fort Saint George to the Straits Settlements; It is hereby enacted as follows :—

I.—PRELIMINARY.

Short title.

I. This Act may be called "The Straits Settlements Emigration Act, 1877:"

Local extent.

It extends only to the territories under the government of the Governor of Fort Saint George in Council;

Commencement.

And it shall come into force on such date as the Governor of Fort St. George in Council, with the previous sanction of the Governor General in Council, may, by notification in the *Fort St. George Gazette* direct.

Interpretation-clause.

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

"Emigrate." "Emigrate" denotes the departure of any Native of India out of the said territories, under an engagement to labour in the said Settlements :

"Emigrant." "Emigrant" means a person who "emigrates" within the meaning of the above definition :

"Magistrate." "Magistrate" means a Magistrate of a District, a Magistrate of a division of a district, or any other person appointed by the Governor of Fort St. George in Council to perform the functions of a Magistrate under this Act :

"Vessel." "Vessel" includes anything made for the conveyance by water of human beings or property.

From what port emigration lawful.

3. It shall not be lawful to emigrate except from such ports as may from time to time be declared by the Governor of Fort St. George in Council, by a notification in the *Fort Saint George Gazette*, to be ports from which emigration under this Act shall be lawful.

The Local Government may, at any time, by a like notification, revoke any such notification.

II.—EMIGRATION AGENTS.

Appointment of Emigration Agents.

4. The Government of the Straits Settlements may, from time to time, appoint such persons as the Governor of Fort St. George in Council approves, to act as Emigration Agents at such ports as aforesaid.

Any Emigration Agent so appointed may be suspended or removed by the Government of the Straits Settlements.

III.—PROTECTORS OF EMIGRANTS.

Appointment of Protector of Emigrants.

5. The Governor of Fort St. George in Council shall direct such persons as he thinks fit to act as Protectors of Emigrants under this Act at such ports and for such local areas as may be assigned to them respectively, and may, with the sanction of the Governor General in Council, assign to such persons such establishment as the Governor of Fort St. George in Council thinks fit.

General duties of Protector.

6. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, protect and aid all emigrants with his advice or otherwise, and cause all the provisions of this Act to be duly complied with.

Inspection of vessels with return emigrants.

He may also inspect on arrival all vessels bringing return emigrants to the port at which he is Protector, and inquire into the treatment received by such emigrants both during the period of their service in the Straits Settlements and also during the voyage, and shall make a report thereon to the Governor of Fort St. George in Council.

Such Protector shall also aid and advise such return emigrants, so far as he reasonably can, when called upon by them to do so.

IV.—EMIGRATION DEPÔT.

Establishment and licensing of depôt.

7. Every Emigration Agent shall establish a suitable depôt for emigrants at the port at which he is Agent. Such depôt may be licensed by the local Protector of Emigrants after being inspected and approved of by him.

Fee for license.

For every such license the Emigration Agent shall pay to the Protector of Emigrants a fee of fifteen rupees.

Inspection by Protector.

8. The Protector of Emigrants may, at any time, examine into the state of the depôt and the manner in which the emigrants are therein lodged, fed, clothed and otherwise provided for and attended to, and shall do so at least once a year.

And he may at any time cancel the license, if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or if the local Emigration Agent fails to comply with any of the requirements of this Act.

Agent and his subordinates to afford facilities for inspection.

The Emigration Agent and all persons in charge of, or employed in, the depôt, shall give the Protector every facility for making such inspections as he may deem necessary or proper, and shall afford him all such information respecting the depôt and the emigrants as he may require.

Supply of medical aid and comforts.

9. The Emigration Agent shall provide at the depôt such medical aid and comforts as the Protector may from time to time direct.

V.—RECRUITERS OF LABOURERS.

Protector to license recruiters.

10. Each Protector of Emigrants shall license so many fit persons as he deems necessary, to be recruiters of labourers for the Straits Settlements; and no person shall engage or attempt to engage any Native of India to emigrate, or shall otherwise act or be employed as a recruiter of labourers, except under a license from a Protector of Emigrants.

Duration and cancelment of license.

11. No such license shall be in force for a longer period than one year; and in case of misconduct on the part of any recruiter, the Protector of Emigrants who granted it may cancel his license before the expiration of the period for which it was granted.

Form of license.

12. Every such license shall specify the local limits within which the person licensed may recruit labourers, and shall be in the form set forth in the first schedule hereto annexed.

Fee for license.

For every such license the recruiter shall pay to the Protector a fee of five rupees.

Recruiter to obtain Magistrate's countersignature to license.

13. No recruiter shall engage, or attempt to engage, labourers in any district without having first exhibited his license to a Magistrate in such district, and obtained the countersignature of such Magistrate thereupon.

No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself, by such enquiry as he thinks fit, that the licensee is not by character or from any other cause unfitted to be a recruiter under this Act.

If any Magistrate who has countersigned a license afterwards finds reason to think that the licensee is by character or other cause unfitted to be a recruiter under this Act, he may require the licensee to produce the license and may cancel his signature; or he may, if he thinks fit, impound the license and send it to the Emigration Agent for cancellation.

Every Magistrate refusing to countersign a recruiter's license or cancelling his signature as aforesaid, shall, without delay, report his refusal or cancellation and the grounds of it to the Protector of Emigrants who has authority to cancel the recruiter's license.

VI.—CONTRACTS WITH EMIGRANTS.

Conditions of validity of emigration contracts.

14. No contract made by a recruiter with a Native of India to emigrate shall be enforceable by the recruiter or his principal unless it—

(*a*) is expressed in writing;

(*b*) is executed by the recruiter on behalf of some principal in the Straits Settlements;

(*c*) states the terms, if any, agreed on as to the redemption of the recruit's engagement for employment, or of the unexpired term of such engagement;

(*d*) the term of the recruit's employment, the nature of the services to be performed by him, and the rate of wages to be paid in respect of the same are registered in the manner provided in section eighteen.

But nothing contained in this section shall be deemed to prevent such Native from insisting, if he thinks fit, that such contract shall be performed.

Contents of such contracts.

15. Every such contract shall—

(*a*) contain an engagement for employment to be provided by such principal for a definite term not exceeding three years; and

(*b*) specify the nature of the services to be performed by such recruit and the rates of wages (not less than twelve cents a day for an able-bodied male adult) payable in respect of the same.

Certain agreements declared void.

16. Save as provided by section fourteen, clause (*c*), every agreement entered into by a Native of India in the territories subject to the Governor of Fort Saint George in Council, to pay money to any person in the Straits Settlements, in consideration of pecuniary or other assistance given to such Native to emigrate, shall be illegal and void.

Every contract not containing the particulars required by section fifteen shall be illegal and void.

Medical examination of intending emigrants.

17. Every recruit who has entered into such a contract as aforesaid shall be brought by the recruiter before the Civil Surgeon of the district or such other medical officer as the Local Government appoints in this behalf or, in default of such appointment, before such medical officer as the Magistrate directs.

The medical officer shall thereupon examine the recruit, and shall either reject him or shall certify that he is in a fit state of health and able in point of physical condition to proceed to the Straits Settlements and to work there.

Dependents.

If it is intended that any persons shall accompany the recruit as his dependents, the recruiter shall also bring them before the medical officer for the purpose of obtaining certificates that they are in a fit state of health and able in point of physical condition to perform the journey to the Straits Settlements; and the medical officer shall examine such persons and shall give or refuse certificates according to his opinion as to their fitness and ability.

Form of certificates.

Certificates shall be in the form set forth in the second schedule hereto annexed; and the recruiter shall pay to the medical officer such fee for each person so examined as the Local Government may from time to time prescribe.

Emigrant to appear before Magistrate, and be examined.

18. Every certified recruit and every accompanying dependent shall appear with the recruiter before a Magistrate in the district within which the contract with the recruit was entered into.

The Magistrate shall thereupon inspect the instrument of contract and the medical certificate of the recruit, and shall, apart from the recruiter, examine the recruit with reference to his contract.

If it appears on such examination that the recruit understands the nature of the contract he has entered into, and that he is willing to fulfil the same, the Magistrate shall register

(*a*) the name, the father's name and the age of such recruit:

(*b*) the name of the village or place in which he resides:

(*c*) the port of embarkation to which it is intended he shall proceed:

(*d*) the name of his employer:

(*e*) the term of his employment, the nature of the services to be performed by him and the rate of wages to be paid in respect of the same.

The recruit shall thereupon be deemed an emigrant under this Act.

Registration when to be refused.

If the Magistrate thinks that the recruit does not understand the nature of the contract into which he has entered, or has been induced to enter into it by fraud or misrepresentation, or finds that the contract is not in accordance with section fifteen, he shall refuse to register the particulars specified as aforesaid, and record his reasons for such refusal.

Examination of dependents.

19. On the appearance of any person claiming to be dependent on an emigrant, the Magistrate, after inspecting the medical certificate, shall, apart from the recruiter, examine such person if able to give intelligent answers to questions as to his dependence upon the emigrant whom he is about to accompany, and as to his willingness to accompany such emigrant.

If the Magistrate is satisfied that such dependence and willingness exist, he shall register the dependent as a dependent on such emigrant.

But if the Magistrate sees reason to doubt the existence of such dependence or willingness, he may refuse to register the alleged dependent, and, if so, shall record his reasons for such refusal.

Copies of registered matters.

20. The Magistrate shall furnish to every emigrant an authenticated copy on substantial paper of the matters registered under sections 18 and 19.

Copy of entry in register to be sent to Emigration Agent and Protector.

21. A copy of every entry made in the registry book by a Magistrate, shall be forthwith forwarded by such Magistrate to the Emigration Agent and to the Protector of Emigrants.

Registration.

22. The registration required by sections 18 and 19 shall, in the case of emigrants recruited in any local area for which a Protector of Emigrants has been appointed, be effected before him instead of a Magistrate; and such Protector shall furnish to the emigrant one copy of the matters so registered, and another copy of the same matters to the Emigration Agent.

Fee for registration.

23. For the registration of every recruit under section 18, the recruiter shall pay to the Magistrate or to the Protector of Emigrants, as the case may be, such fee not exceeding one rupee, as may be from time to time directed by the Local Government.

VII.—ARRIVAL AT DEPÔT AND PROCEDURE THEREON.

Arrival at depôt to be reported.

24. The arrival of each emigrant at the depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

The Emigration Agent may institute such examination of the emigrants as he thinks fit in order to satisfy himself of their fitness to emigrate.

Duty of Emigration Agent on arrival of emigrants.

25. The Protector of Emigrants shall, within forty-eight hours after the arrival at the depôt of each emigrant not registered by himself, question such emigrant as to the mode in which he has been treated on his journey to the depôt, and shall at the same time examine the emigrant's contract and the copy of the register furnished to him under section 20.

If, for any reason, further enquiry is necessary, he shall make such enquiry forthwith.

Contersignature of register.

26. If in the opinion of the Protector of Emigrants the examination and enquiry made under section 25 disclose no valid reason against the fulfilment of the contract, and the emigrant has not become physically unfit for emigration, the Protector and the Emigration Agent shall countersign the emigrant's copy of the register and the Emigration Agent shall make out and deliver to the emigrant an embarkation-pass signed by the Emigration Agent, and countersigned by the Protector, stating the name and the age of the emigrant and the name of his father, certifying that he has been duly registered for emigration to the Straits Settlements and mentioning the port of debarkation.

Grant of embarkation pass.

When the emigrant to be sent back to the place of registration.

27. If the Protector of Emigrants considers that any emigrant is physically unfit to emigrate, and that he has not dishonestly represented himself as physically fit;

or that any such irregularity has occurred in the recruitment of any such emigrant, as makes it just to vacate the contract;

or if the Emigration Agent refuses without the consent of the Protector to countersign the emigrant's copy of the register as required by section 26, or to be bound by the contract;

Payment of expenses of sending him back.

the Protector of Emigrants may order the Emigration Agent, or the recruiter with whom the contract was made, forthwith to pay to him such reasonable sum as is necessary to enable such emigrant to return to the place where his name was registered under section 18; and may take any steps he thinks necessary for the conveyance of such emigrant to such place;

and any emigrant who from his state of health is in the opinion of the Protector of Emigrants physically unfit to undertake such return, shall be entitled to be fed, lodged and attended to at the port of embarkation at the expense of the Emigration Agent until he is reported by the Protector of Emigrants fit to undertake such return to such place.

Payment of expenses of dependent accompanying emigrant.

28. If a dependent has accompanied such emigrant, the Protector of Emigrants may order the Emigration Agent or recruiter to pay such sum as is necessary to enable him to return to the place at which his name was registered under section 19, as well as to feed or lodge him during the detention (if any) of the emigrant at the depôt.

Effect of such dependent's unfitness from ill-health to return to Straits.

29. If the Protector of Emigrants has reason to think that any dependent is in such a state of health that his journey to the Straits Settlements, or his detention in the depôt, would be dangerous to himself or others, he shall so certify to the Emigration Agent, and thereupon the emigrant to whom such dependent is attached shall be entitled, if he so wishes, to return as if he himself had been found under section 27 to be physically unfit to emigrate.

If the emigrant still desires to emigrate, then the dependent shall be kept and returned to the place at which he was registered as if he were an emigrant falling under section 27.

Compensation to emigrant or dependent for ill-treatment on journey to depôt.

30. If upon the arrival of any emigrant or dependent at the depôt, it appear that, during the journey thither, he has suffered any ill-treatment, or the recruiter has failed to provide him with proper and sufficient food and lodging, the Protector of Emigrants may order the Emigration Agent to pay him a reasonable sum by way of compensation.

Failure of Emigration Agent, &c., to pay such [illegible]

31. On failure of the Emigration Agent or of such recruiter for twenty-four hours to comply with an order of the Protector for the payment of any sum ordered to be paid under any of the four last preceding sections, the Protector may pay the same to, or on behalf of, the emigrant.

Every sum so paid shall be recoverable by the Protector, with six per cent. per annum interest from the date of payment, from the Emigration Agent, or from such recruiter.

No further proof shall be required by any Court in any such case than that the Protector gave such Emigration Agent or recruiter an order to pay such money, and that the Emigration Agent or recruiter for a space of twenty-four hours made default in complying therewith.

Suits against Emigration Agent for breach of contract.

32. Whenever the Emigration Agent refuses, without the consent of the Protector, to countersign an emigrant's copy of the register as required by section 26, or is chargeable with a breach of any duty which any contract with an emigrant expressly or by implication imposes upon him, the Protector may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of damages for the breach of such contract.

In every such suit the contract entered into by the recruiter shall be deemed to have been entered into by, and to be binding on, the Emigration Agent.

VIII.—EMIGRANT VESSELS.

Emigrants not to be received on board vessels other than those licensed under Native Passengers Act.

33. No Master or other person in charge of a vessel shall receive on board any emigrant unless such vessel has been licensed, under the law for the time being in force relating to the carriage by sea of Native passengers, to carry passengers for the intended voyage and unless the Master of such vessel has obtained a certificate from the Protector of Emigrants authorizing him to receive on board the number of emigrants specified therein.

or without certificate from Protector.

Protector not to grant certificate unless satisfied that vessel has been licensed and has provisions on board.

No such certificate shall be granted by the Protector of Emigrants unless he has satisfied himself that the vessel has been licensed as aforesaid, and that provisions and water for the number of emigrants to be specified in the certificate according to the scale prescribed under such law have been actually put on board such vessel.

Emigrant to give his pass to Master.

34. On embarkation, every emigrant shall deliver to the Master of the vessel the embarkation pass granted to him under section 26, and the Master shall not receive any emigrant on board unless he delivers up such pass.

Emigration Agent to be present at embarkation.

35. The Emigration Agent shall be personally present at the embarkation of all emigrants, and shall see that the Master duly examines the passes of the emigrants, and shall himself also examine such passes.

The Emigration Agent shall not permit any emigrant to remain on board who has not a pass.

36. The Master of every vessel carrying emigrants shall, after the embarkation of the emigrants, and before the departure of the vessel, give to the Emigration Agent a list of all emigrants on board, signed by himself and mentioning the port of debarkation, and shall retain a counterpart of such list signed by the Emigration Agent.

Master to deliver list of emigrants.

A copy of such list signed by the Emigration Agent and Master shall be sent to the Protector of Emigrants before the vessel sails.

IX.—SUPPLEMENTARY POWERS.

37. Whenever the Governor General in Council has reason to believe that proper measures have not been taken for the protection of emigrants and the enforcement of the engagements entered into with them immediately upon their arrival at the Straits Settlements, or during their residence therein, the Governor General in Council may, by a notification published in the *Gazette of India*, declare that emigration under this Act to the said Settlements shall cease from a day to be specified in such notification.

Power to prohibit emigration to the Straits Settlements.

When any notification has been published under this section, emigration under this Act and the making of contracts to emigrate to the Straits Settlements shall be unlawful from the day specified in such notification.

38. Such notification may be revoked in like manner by the Governor General in Council, and thereupon emigration to the said Settlements shall again be allowed from a day to be specified in the revocation.

Revocation of prohibition.

From the day so specified all the provisions of this Act authorizing emigration to the said Settlements shall be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced, during the time of such suspension.

X.—OFFENCES.

39. Whoever, except under and in conformity with the provisions of this Act, engages or attempts to engage any Native of India to emigrate,

Making unlawful contract of labour.

or whoever engages, or attempts to engage, any Native of India to enter into any such contract as is hereby declared illegal,

or, not being a recruiter duly licensed under this Act, acts or is employed as a recruiter of labourers for the Straits Settlements,

Recruiting without being licensed.

or being a recruiter duly licensed under this Act, removes or attempts to remove any person whom he engages in any district from such district until the particulars required by section 18 have been duly registered,

Recruiter omitting to take engaged labourers before Magistrate or Protector.

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

40. Whoever, by means of intoxication, violence, fraud, or false pretences, causes or induces or attempts to cause or induce any Native of India to emigrate or to enter into any contract to emigrate, or into any such contract as is hereby declared illegal, or to proceed to the said Settlements without having entered into any contract, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and any police-officer may for such offence arrest him without warrant.

Use of force, fraud, &c., to cause a Native to emigrate.

41. Whoever, without lawful authority, issues any written order to the police to assist himself or any other person to procure labourers to proceed to the said Settlements, or falsely represents that such labourers are required by the Government, or are to be engaged on behalf of the Government, shall be liable to imprisonment for a term not exceeding six months, or to fine not exceeding five hundred rupees, or to both.

False representation of Government authority.

42. Any Master of a vessel not licensed as provided in section thirty-three who knowingly receives on board, for conveyance to the said Settlements, any emigrant or person who has entered into a contract hereby declared illegal,

Receiving emigrants on board without license or certificate.

and any Master of a vessel licensed as aforesaid, who knowingly receives any emigrant as aforesaid without having previously obtained a certificate under the said section, or in excess of the number specified in such certificate,

shall be liable for each emigrant or person so received to imprisonment for a term which may extend to three months, or to fine not exceeding two hundred rupees, or to both, and the vessel shall be liable to be forfeited.

43. Any Master of a vessel who receives on board such vessel any emigrant for the said Settlements and fails to comply with the requirements of sections 34 and 36, shall be liable to a fine not exceeding two hundred rupees.

Failure to comply with requirements of sections 34 and 36.

44. Any Master of a vessel landing any emigrant or dependent at any port other than the port of debarkation specified in embarkation-pass and list, unless in case of stress of weather or other unavoidable accident, shall be liable for every emigrant or dependent so landed to a fine not exceeding two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Penalty for landing emigrant or dependent at other than specified port.

45. Any Master of a vessel who having cleared such vessel for the said Settlements, takes on board any emigrant not entered in the list mentioned in section 36, shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.

Taking on board, after clearance, emigrants not entered in list.

46. All prosecutions under sections 42, 43, 44 and 45 shall be instituted by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government.

Prosecutions under this Act by whom to be instituted.

47. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention and detection of the illegal embarkation of emigrants on board vessels bound for the said Settlements and of other offences against this Act.

Customs officers may search and detain for purposes of this Act.

XI.—MISCELLANEOUS.

48. Nothing in this Act shall apply to any vessels in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

Act not to apply to certain vessels.

49. Nothing in this Act shall apply to any contract with, or the emigration of, any Native seaman, or other person who of his own free will contracts to navigate or serve on board of any vessel, or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only and who embarks as such menial servant.

or to contracts with Native seamen and menial servants.

50. The Emigration Agent and all persons employed by him and the Protector of Emigrants shall be deemed to be public servants within the meaning of the Indian Penal Code.

Emigration Agent and his subordinates and Protector of Emigrants to be deemed public servants.

51. The Indian Emigration Act, 1871, shall not apply to the Straits Settlements, unless and until the Governor General in Council, by notification in the *Gazette of India*, declares it so to apply.

Indian Emigration Act, 1871, not to apply to Straits Settlements.

52. Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871*) is hereby repealed.

Repeal of Act XIV of 1872.

THE FIRST SCHEDULE.

(*See section* 12.)

Office of the Protector of Emigrants at the Port of .

A. B. described in the Roll annexed is hereby licensed under the Straits Settlements Emigration Act, 1877, to be a recruiter of labourers.

[*Here set out the local limits within which the recruiter is licensed to act.*]

This license will be in force until the day of , unless previously cancelled.

(Sd.) *C. D.*,
Protector of Emigrants.

Dated the day of

Descriptive Roll.

Name.	Father's name.	Age. Years.	Age. Months.	Caste.	Co	Height. Feet.	Height. Inches.	Distinguishing marks.	Name of village and district to which he belongs.

THE SECOND SCHEDULE.

(*See section* 17.)

I hereby certify that I have this day examined *A. B.*, and that he is, to the best of my belief and judgment, in a fit state of health, and able, in point of physical condition, to proceed to the Straits Settlements [and to work there*].

(Sd.) *C. D.*,
(*Here add designation of examining officer*).

* These words to be omitted in case of women and children not engaging for labour.

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

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 14th March 1877, and is hereby promulgated for general information:—

ACT NO. VI OF 1877.

An Act for postponing the day on which the Opium Act, 1876, is to come into force.

Preamble.

WHEREAS the Opium Act, No. XXIII of 1876, section one, enacts that the said Act shall come into force on the first day of April 1877: And whereas it is expedient to postpone the day on which such Act shall come into force; It is hereby enacted as follows:—

1. The said Act No. XXIII of 1876 shall come into force, not on the first day of April 1877, but on such day as the Governor General in Council may, by notification in the *Gazette of India*, direct in this behalf.

Opium Act when to take effect.

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

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information :—

ACT No. VII OF 1877.

An Act 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 school-houses, 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."

Amendment of Act of 1871, ss. 12, 13 and 14.

2. In Section 12 of the said Act, for the word "assignment" in each of the places where it occurs, the word "allotment" shall be substituted, and for the word "re-allotted" the word "re-assigned" shall be substituted.

And in section 13 of the said Act, for the word "assignment" the word "allotment" shall be substituted,

And in Section 14 of the same Act, for the word "amount," in each of the places where it occurs, the word "allotment" shall be substituted.

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

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information :—

ACT No. VIII OF 1877.

An Act 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 to the provinces under the government of the Lieutenant-Governor of the North-Western Provinces; but nothing herein contained applies to persons earning their livelihood solely by agriculture.

Commencement.

And it shall come into force at once.

"Collector" defined.

2. In this Act "Collector" means the Chief Officer in charge of the revenue-administration of a District.

Annual licenses to be taken out.

3. 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 to which he belongs.

Officer to grant license.

4. 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 his trade or dealing in more than one district in the North-Western Provinces, 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.

5. 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 his 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.

6. 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 day of the granting thereof.

Renewal of license.

7. 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.

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 to be 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 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.

9. The Collector shall from time to time determine under which of the classes 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 1877 within thirty days of such publication in that year and within thirty days next after the first day of January in each succeeding year.

Petition of objector.

10. Any person mentioned in such list and objecting to the class 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 entered or altogether removed from the list.

Hearing of petition. Appeal from order on petition.

11. 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 :

Provided 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, and the fee, if any, paid by him shall be returned.

There shall be no appeal from an order under this section.

Power to remit fee.

12. 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.

Persons carrying on several trades.

13. A person or firm carrying on several trades or businesses and 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 be for the purposes of this Act be considered payment by the firm.

Penalty for carrying on business without a license.

14. 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 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 and all fees payable under this Act shall be recoverable as if they were arrears of land-revenue.

License to be produced on demand.

15. 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 and managers chargeable.

16. 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.

Power to retain assessment paid by trustee, &c.

17. 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 Court and person so charged may, from time to time, out of the money coming to its or his 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.

Every such person or Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Municipalities.

18. The Collector 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 under which they respectively fall 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, and the Collector has reason to doubt their accuracy, he may at any time cause a return showing the names, numbers, and classes aforesaid to be prepared in such manner as may be prescribed by the Local Government.

19. When the return mentioned in section 18 has been furnished or prepared, notice shall be served on the Municipality, calling on it to pay to the Collector 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 said Act No. XV of 1873.

Miscellaneous.

20. All taxes raised and penalties recovered under this Act shall be paid to the credit of the Local Government, or as such Government from time to time directs.

Payment of taxes raised and penalties recovered under Act.

21. 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.

22. Every person shall be legally bound to furnish information to any officer or person exercising any of the powers of a Collector under this Act when required by him to do so.

Obligation to furnish information to Collector.

23. 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 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 providing in any case or class of cases for serving notices on persons charged under this Act, 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	Rs. 16.
Professional money-lenders ...	
Companies registered under the Indian Companies Act, 1866 ...	
Owners of cotton-screws ...	
Persons keeping shops for the sale of European goods	
Hotel-keepers	
Wholesale-dealers	
Dealers in precious stones ...	

CLASS II.

Cloth-sellers	Rs. 8.
Metal-vessel-sellers	
Fuel-sellers (talwálas) ...	
Chaudhrís	
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 artisans	

CLASS III.

Persons carrying on any trades or dealings not above specified ...	Rs. 2.

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

[First Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information:—

ACT No. IX OF 1877.

An Act to revive and amend Act No. XXIII of 1867.

Preamble.

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:—

Act XXIII of 1867 to be revived.

1. The said Act shall be revived and shall remain in force until the Governor General in Council otherwise directs.

Amendment of Act XXIII of 1867.

2. For the word "Commissioner" wherever it occurs in the said Act, the words "Sessions Judge or Commissioner" shall be substituted.

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

[First Publication.]

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

ACT No. X OF 1877.

THE CODE OF CIVIL PROCEDURE.

CONTENTS.

PREAMBLE.

PRELIMINARY.

SECTIONS.
1. Short title.
Commencement.
Local extent.
2. Interpretation-clause.
3. Enactments repealed.
References in previous Acts.
Saving of procedure in suits instituted before 1st October 1877.
4. Saving of certain Acts affecting Oudh, Panjab, Central Provinces and Burma.
5. Sections extending to Mufassal Small Cause Courts.
6. Saving of jurisdiction and procedure—
(*a*) of Military Courts of Request;
(*b*) of officers appointed to try small suits in Bombay;
(*c*) of village Munsifs and village Panchayats in Madras;
(*d*) of Recorder of Rangoon sitting as an Insolvent Court.
7. Saving of certain Bombay laws.
8. Presidency Small Cause Courts.
9. Division of Code.

PART I.
OF SUITS IN GENERAL.

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

10. No person exempt from jurisdiction by reason of descent or place of birth.
11. Courts to try all civil suits unless specially barred.
12. Pending suits.
13. *Res judicata.*
14. When foreign judgment no bar to suit in British India.

CHAPTER II.
OF THE PLACE OF SUING.

15. Court in which suit to be instituted.
16. Suits to be instituted where subject-matter situate.
17. Suits to be instituted where defendants reside or cause of action arose.
18. Suits for compensation for wrongs to person or moveables.
19. Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.

SECTIONS.
Suits for immoveable property situate in different districts.
20. Power to stay proceedings where all defendants do not reside within jurisdiction.
Application when to be made.
21. Remission of Court-fee where suit instituted in another Court.
22. Procedure where Courts in which suit may be instituted are subordinate to the same Appellate Court.
23. Procedure where they are not so subordinate.
24. Procedure where they are subordinate to different High Courts.
25. Transfer of suits.

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

26. Persons who may be joined as plaintiffs.
27. Court may substitute or add plaintiff for or to plaintiff suing.
28. Persons who may be joined as defendants.
29. Joinder of parties liable on same contract.
30. One party may sue or defend on behalf of all in same interest.
31. Suit not to fail by reason of misjoinder.
32. Court may dismiss or add parties.
No one to be added as plaintiff or as next friend without his consent.
Parties to suits instituted or defended under section 30.
Defendants added to be served.
Conduct of suit.
33. Where defendant added, plaintiff to amend.
34. Time for taking objections as to non-joinder or misjoinder of parties.
35. Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.
Authority to be in writing signed and filed.

Recognized Agents and Pleaders.

36. Appearances, &c., may be in person, by recognized agent or by pleader.
37. Recognized agents.
Persons holding powers-of-attorney from parties out of jurisdiction.
Certificated mukhtárs.
Persons carrying on trade or business for parties out of jurisdiction.
Recognized agents in Panjáb, Oudh and Central Provinces.
38. Service of process on recognized agent.
39. Appointment of pleader.
40. Service of process on pleader.
41. Agent to receive process.
His appointment to be in writing and to be filed in Court.

CHAPTER IV.
OF THE FRAME OF THE SUIT.

42. Suit how to be framed.
43. Suit to include the whole claim.
Relinquishment of part of claim.
Omission to sue for one of several remedies.

SECTIONS.

44. Only certain claims to be joined with suit for recovery of land.
Claims by or against executor, administrator, or heir.
45. Plaintiff may join several causes of action.
Court may order separation.
46. Defendant may apply to confine suit.
47. Court on hearing application may exclude some causes and order amendment.

CHAPTER V.

OF THE INSTITUTION OF SUITS.

48. Suits to be commenced by plaint.
49. Language of plaint.
50. Particulars to be contained in plaint.
In money suits.
Where plaintiff sues as a representative.
Defendant's interest and liability to be shown.
Grounds of exemption from limitation-law.
51. Plaint to be subscribed and verified.
52. Contents of verification.
Verification to be signed and attested.
53. When the plaint may be rejected, returned for amendment, or amended.
Proviso.
Attestation of amendment.
54. When the plaint shall be rejected.
55. Procedure on rejecting a plaint.
56. When rejection of plaint does not preclude presentation of fresh plaint.
57. When the plaint shall be returned to be presented to the proper Court.
Procedure on returning plaint.
58. Procedure on admitting plaint.
Concise statements.
Register of suits.
59. Production of document on which plaintiff sues.
Delivery of document or copy.
List of other documents.
60. Statement in case of documents not in his possession or power.
61. Suits on lost negotiable instruments.
62. Production of shop-book.
Original entry to be marked and returned.
63. Inadmissibility of document not produced when plaint filed.

CHAPTER VI.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

64. Summons.
65. Copy or statement annexed to summons.
66. Court may order defendant or plaintiff to appear in person.
67. No party to be ordered to appear in person unless resident within 50 or, where there is a railway, 200 miles.
68. Summons to be either to settle issues or for final disposal.
69. Fixing day for appearance of defendant.
70. Summons to order defendant to produce documents required by plaintiff or relied on by defendant.
71. On issue of summons or final disposal, parties to be directed to produce their witnesses.

Service of Summons.

SECTIONS.

72. Delivery of summons for service.
73. Mode of service.
74. Service on several defendants.
75. Service to be on defendant in person, when practicable, or on his agent.
76. Service on agent by whom defendant carries on business.
77. Service on agent in charge, in suits for immoveable property.
78. When service may be on male member of defendant's family.
79. Person served to sign acknowledgment.
80. Procedure when defendant refuses to accept service,
or cannot be found.
81. Endorsement of time and manner of service.
82. Examination of serving officer.
Substituted service.
83. Effect of substituted service.
84. When service is substituted, time for appearance to be fixed.
85. Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.
86. Service within Presidency-towns and Rangoon of process issued by Mufassal Courts.
87. Service on defendant in jail.
88. Procedure if jail be in a different district.
89. Service when defendant resides out of British India and has no agent to accept service.
90. Service through British Resident or agent of Government.
91. Substitution of letter for summons.
92. Mode of sending such letter.

Service of Process.

93. Process to be served at expense of party issuing it.
Costs of service.
94. Notices and orders in writing how served.

Postage.

95. Postage.

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

96. Parties to appear on day fixed in summons for defendant to appear and answer.
97. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing it.
Proviso.
98. If neither party appear, suit to be dismissed.
99. In such case plaintiff may bring fresh suit; or Court may restore the suit to its file.
100. Procedure if only plaintiff appear
when summons was duly served,
when summons not duly served,
when summons served, but not in due time.
101. Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.
102. Procedure where defendant only appears.
Decree against plaintiff by default bars fresh suit.

SECTIONS.

103. Procedure where defendant residing out of British India does not appear.
104. Procedure in case of non-attendance of one or more of several plaintiffs.
105. Procedure in case of non-attendance of one or more of several defendants.
106. Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.
107. Court to receive written declaration in support of cause shown for failure to appear.
108. Setting aside decree *ex parte* against defendant.
109. No decree to be set aside, without notice to opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

110. Written statements.
111. Particulars of set-off to be given in written statement.
Enquiry.
Effect of set-off.
Relinquishment of portion of claim for purpose of set-off.
112. No written statement to be received after first hearing unless called for by Court.
Court may at any time call for written statement.
113. Procedure when party fails to present written statement called for by Court.
114. Frame of written statements.
115. Written statements to be subscribed and verified.
116. Rejection of argumentative, prolix or irrelevant written statements.
Attestation of amendments.
Effect of rejection.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. Ascertainment from each party whether allegations in written statements are admitted or denied.
118. Oral examination of party or companion of himself or his pleader.
119. Substance of examination to be written.
120. Consequence of refusal or inability of pleader to answer.

CHAPTER X.

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

121. Power to deliver interrogatories.
122. Service of interrogatories.
123. Inquiry into propriety of exhibiting interrogatories.
124. Service of interrogatories on officer of corporation or company.
125. Power to strike out interrogatories as irrelevant, &c.
126. Time for filing affidavit in answer.
127. Procedure where a party omits to answer sufficiently.

SECTIONS.

128. Power to demand admission of genuineness of documents.
129. Application for order for discovery of document.
Affidavit in answer to such order.
130. Power to order production of documents during suit.
131. Notice to produce for inspection documents referred to in plaint, &c.
Consequence of non-compliance with such notice.
132. Party receiving such notice to deliver notice when and where inspection may be had.
133. Application for order of inspection.
134. Application to be founded on affidavit.
135. Power to order issue or question on which right to discovery depends to be first determined.
136. Consequences of failure to answer or give inspection.
137. Court may send for papers from its own records or from other Courts.
138. Documentary evidence to be in readiness at first hearing.
139. Effect of non-production of documents.
140. Documents to be received by Court.
Rejection of irrelevant or inadmissible documents.
141. No documents to be placed on record unless proved.
Proved documents to be marked and filed.
Entries in shop-books.
142. Rejected documents to be marked, and returned, unless detained by Court.
143. Court may order any document to be impounded.
144. After lapse of time for appeal, document admitted in evidence may be returned.
When document may be returned before time limited.
Document not be returned in certain cases.
Receipt to be given for returned document.
145. Provisions as to documents applied to material objects.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

146. Framing of issues.
147. Allegations from which issues may be framed.
148. Court may examine witnesses or documents before framing issues.
149. Power to amend, add and strike out issues.
150. Questions of fact or law may by agreement be stated in the form of an issue.
151. Court if satisfied that the agreement was executed in good faith may give judgment.

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

152. If parties are not at issue on any question of law or fact.
153. If one of several defendants be not at issue with the plaintiff.
154. If parties are at issue on questions of law or fact.
Court may determine issue and pronounce judgment.

SECTIONS.
155. If either party fails to produce his evidence, Court may pronounce judgment.
Procedure where Court cannot pronounce judgment at first hearing.

CHAPTER XIII.

OF ADJOURNMENTS.

156. Court may grant time, or adjourn hearing.
Costs of adjournment.
157. Procedure if parties fail to appear on day fixed.
158. Court may proceed notwithstanding either party fails to produce his evidence.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. Summons to attend to give evidence or produce documents.
160. Expenses of witnesses to be paid into Court on applying for summons.
Scale of expenses.
161. Tender of expenses to witness.
162. Procedure where insufficient sum paid in.
Expenses if witness detained more than one day.
163. Time, place, and purpose of attendance to be specified in summons.
164. Summons to produce document.
165. Power to require persons present in Court to give evidence.
166. Summons how served.
167. Time for serving summons.
168. Attachment of property of absconding witness.
169. If witness appears, attachment may be withdrawn.
170. Procedure if witness fails to appear.
171. Court may of its own accord summon as witnesses strangers to suit.
172. Persons summoned to give evidence must attend.
173. When they may depart.
174. Consequences of non-attendance.
Consequences of refusal to give evidence or produce documents.
175. Procedure when witness absconds.
176. Person summoned to attend in person if so required.
177. Consequence of refusal of party to give evidence when called on by the Court.
178. Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. Statement and production of evidence by party having right to begin.
Rules as to right to begin.
180. Statement and production of evidence by other party.
Reply by party beginning.
181. Witnesses to be examined in open Court.
SECTIONS.
182. How evidence shall be taken in appealable cases.
183. When witness may require his deposition to be interpreted.
184. Memorandum when evidence is not taken down by Judge.
185. When evidence may be taken in English.
186. Any particular question and answer may be taken down.
187. Questions objected to.
188. Remarks on demeanour of witnesses.
189. Memorandum of evidence in unappealable cases.
190. Judge unable to make such memorandum to record reason of his inability.
191. Power to deal with evidence taken down by Judge removed before conclusion of suit.
192. Power to examine witness immediately.
193. Court may recall and examine witness.

CHAPTER XVI.

OF AFFIDAVITS.

194. Power to order any point to be proved by affidavit.
195. When evidence may be given by affidavit.
196. Matters to which affidavits shall be confined.
197. Oath of declarant by whom to be administered.

CHAPTER XVII.

OF JUDGMENT AND DECREE.

198. Judgment when pronounced.
199. Power to pronounce judgment written by Judge's predecessor.
200. Language of judgment.
201. Translation of judgment.
202. Judgment to be dated and signed.
203. Judgments of Small Cause Courts.
Judgments of other Courts.
204. Court to state its decision on each issue.
Exception.
205. Date of decree.
206. Contents of decree.
Power to amend decree.
207. Decree for recovery of portion of immoveable property.
208. Decree for delivery of moveable property.
209. In suits for money, decree may order certain interest to be paid on principal sum adjudged.
210. Payment by instalments.
When Court may order payment by instalments.
211. In suits for land, Court may decree payment of mesne profits with interest.
212. Court may determine amount of mesne profits prior to passing decree, or may reserve enquiry.
213. Administration-suit.
214. Suit to enforce right of pre-emption.
215. Suit for dissolution of partnership.
216. If set-off be allowed.
Effect of decree.
217. Certified copies of decree and judgment to be furnished.

CHAPTER XVIII.

OF COSTS.

SECTIONS.
218. Costs of applications.
219. Judgment to direct by whom costs are to be paid.
220. Power of Court as to costs.
221. Costs may be set-off against sum admitted or found to be due.
Saving of Pleader's lien.
222. Interest on costs.
Payment of costs out of subject-matter.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.
223. Court by which decree may be executed.
224. Procedure when Court desires that its own decree shall be executed by another Court.
225. Court receiving copies of decree, &c., to file same without proof.
226. Execution of decree or order by Court to which it is sent.
227. Execution by High Court of decree transmitted by other Court.
228. Appeal from orders for execution of decrees of other Courts.
229. Decrees of Courts established by Government of India in Native States.

B.—Of Application for Execution.
230. Application for execution.
231. Application by joint decree-holder.
232. Application by transferee of decree.
233. Transferee to hold subject to equities enforceable against original holder.
234. If judgment-debtor die before execution, application may be made against his representative.
235. Contents of application for execution of decree.
236. Application for attachment of immoveable property to be accompanied with inventory.
237. Application for attachment of moveable property to be accompanied with inventory.
238. When application must be accompanied by extract from Collector's register.

C.—Of staying Execution.
239. When Court may stay execution.
240. Power to require security from, or impose conditions upon, judgment-debtor.
241. Liability of judgment-debtor discharged to be retaken.
242. Order of Court passing decree or of Appellate Court to be binding upon Court applied to.
243. Stay of execution pending suit between decree-holder and judgment-debtor.

D.—Questions for Court executing Decree.
244. Questions to be decided by Court executing decree.

E.—Of the mode of executing Decrees.
245. Procedure on receiving application for execution of decree.
Procedure on admitting application.
SECTIONS.
246. Cross-decrees.
247. Cross-claims under same decree.
248. Notice to show cause why decree should not be executed.
Proviso.
249. Procedure after issue of notice.
250. Warrant when to issue.
251. Date, signature, seal and delivery.
252. Decree against representative of deceased for money to be paid out of deceased's property.
253. Decree against surety.
254. Decree for money.
255. Decree for mesne profits or other matter, amount of which to be subsequently ascertained.
256. Power to direct immediate execution of decree for money not exceeding rupees 1,000.
257. Modes of paying money under decree.
258. Payment of money out of Court to decree-holder.
259. Decrees for specific moveables, or recovery of wives.
260. Decree for specific performance or restitution of conjugal rights.
261. Decree for execution of conveyances, or endorsement of negotiable instruments.
262. Form and effect of execution of conveyance by Court.
263. Decree for immoveable property.
264. Delivery of immoveable property when in occupancy of tenant.
265. Partition of estate or separation of share.

F.—Of Attachment of Property.
266. Property liable to attachment and sale in execution of decree.
267. Power to summon and examine persons as to property liable to be seized.
268. Attachment of debt, share and other property not in possession of judgment-debtor.
269. Attachment of moveable property in possession of defendant.
Power to make rules for maintenance of attached live-stock.
270. Attachment of negotiable instruments.
271. Seizure of property in house.
Seizure of property in zanánás.
272. Attachment of property deposited in Court or with Government officer.
Proviso.
273. Attachment of decree for money.
Attachment of other decrees.
Decree-holders to give information.
274. Attachment of immoveable property.
275. Order for withdrawal of attachment after satisfaction of decree.
276. Private alienation of property after attachment to be void.
277. Court may direct coin or currency-notes attached to be paid to party entitled.
278. Investigation of claims to and objections to attachment of attached property.
Postponement of sale.
279. Evidence to be adduced by claimant.
280. Release of property from attachment.
281. Disallowance of claim to release of property attached.
282. Continuance of attachment subject to claim of incumbrancer.

SECTIONS.
283. Saving of suits to establish right to attached property.
284. Power to order property attached to be sold and proceeds be paid to person entitled.
285. Property attached in execution of decrees of several Courts.

G.—Of Sale and Delivery of Property.

(a). General Rules.

286. Sales by whom conducted and how made.
287. Proclamation of sales by public auction.
Rules to be made by High Court.
288. Indemnity of Judges, &c.
289. Mode of making proclamation.
290. Time of sale.
291. Power to adjourn sale.
Stoppage of sale on tender of debt and costs, or on proof of payment.
292. Officers concerned in execution-sales not to bid for or buy property sold.
293. Defaulting purchaser answerable for loss by re-sale.
294. Decree-holder not to bid for or buy property without permission.
If decree-holder purchase, amount of decree may be taken as payment.
295. Proceeds of execution sale to be divided rateably among decree-holders.
Proviso where property is sold subject to mortgage.

(b). Rules as to Moveable Property.

296. Rules as to negotiable securities and shares in public companies.
297. Payment for moveable property sold.
298. Irregularity not to vitiate sale of moveable property, but any person injured may sue.
299. Delivery of moveable property belonging to defendant actually seized.
300. Delivery of moveable property to which judgment-debtor is entitled subject to lien.
301. Delivery of debts and of shares in public companies.
302. Transfer of negotiable instruments and shares.
303. Vesting order in case of other property.

(c). Rules as to Immoveable Property.

304. Sales of land by Court not inferior to a District Court.
305. Postponement of sale of land to enable defendant to raise amount of decree.
Certificate to judgment-debtor.
306. Deposit by purchaser of immoveable property.
307. Time for payment in full.
308. Procedure in default of payment.
309. Notification on re-sale of immoveable property.
310. Co-sharer of a share of undivided estate sold in execution to have preference in bidding.
311. Sale of land not set aside on ground of irregularity unless in case of substantial injury.
312. Effect of objection being disallowed and of its being allowed.
313. Power to apply to set aside the sale.

SECTIONS.
314. Confirmation of sale.
315. If sale set aside, price to be returned to purchaser.
316. Certificate to purchaser of immoveable property.
Certificate to state name of actual purchaser.
317. Benámí purchaser not recognized.
318. Delivery of immoveable property in occupancy of judgment-debtor.
319. Delivery of immoveable property in the occupancy of tenant.
320. Power to prescribe rules for transferring to Collector execution of decrees and sale of land.
Power to prescribe rules as to transmission, execution and re-transmission of decrees.
321. Power of Collector as to sale of land in execution of decree.
322. Powers of Collector as to execution of certain money-decrees so transferred.
323. Procedure of Collector.
324. Sale by Collector.
325. Sale, &c., to be reported to Court by Collector.
Application of balance.
326. When Court may authorize Collector to stay public sale of land.
327. Local rules as to sales of land in execution of decrees for money.

(H).—Of Resistance to Execution.

328. Procedure in case of obstruction to execution of decree.
329. Procedure in case of obstruction by judgment-debtor or at his instigation.
330. Procedure when obstruction continues.
331. Procedure in case of obstruction by claimant in good faith, other than judgment-debtor.
332. Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.
333. Orders passed under sections 331 and 332 to have force of decrees, and to be subject to appeal.
334. Resisting or obstructing purchasers in obtaining possession of immoveable property.
335. Obstruction by claimant other than defendant.

(I).—Of Arrest and Imprisonment.

336. Place of judgment-debtor's imprisonment.
Arrest in houses.
Proviso.
337. Warrant for arrest to direct judgment-debtor to be brought up.
338. Scales of subsistence allowances.
339. Judgment-debtor's subsistence-money.
340. Subsistence money to be added to amount of decree.
341. Release of judgment-debtor.
342. Imprisonment not to exceed six months.
When not to exceed six weeks.
343. Endorsement on warrant.

CHAPTER XX.

OF INSOLVENT JUDGMENT-DEBTORS.

344. Power to apply to be declared an insolvent.

SECTIONS.
345. Contents of application.
346. Subscription and verification of application.
347. Service on decree-holder of copy of application and notice.
348. Power to serve other creditors.
349. Powers of Court as to applicant under arrest.
350. Procedure at hearing.
351. Declaration of insolvency and appointment of Receiver.
352. Creditors to prove their debts.
Schedule to be framed.
353. Applications by creditors.
354. Effect of order appointing Receiver.
355. Receiver to give security and collect assets.
Discharge of insolvent.
356. Duty of Receiver.
His right to remuneration.
Delivery of surplus.
357. Effect of discharge.
358. When Court may declare insolvent absolved from further liability.
359. Procedure in case of dishonest applicant.
360. Investment of other Courts with powers of District Courts.
Transfer of cases.

PART II.
OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

361. No abatement by party's death, if cause of action survive.
362. Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.
363. Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.
364. Proceeding where no application made by representative of deceased plaintiff.
365. Proceeding in case of death of sole, or sole surviving, plaintiff.
366. Abatement where no application by representative of deceased plaintiff.
367. Procedure in case of dispute as to representative of deceased plaintiff.
368. Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.
369. Suit not abated by marriage of female party.
370. When plaintiff's bankruptcy or insolvency bars suit.
Procedure when assignee fails to continue suit or give security.
371. Effect of abatement on parties' rights.
Application to set aside abatement or dismissal.
372. Procedure in case of assignment pending the suit.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. Power to allow plaintiff to withdraw with liberty to bring fresh suit.
SECTIONS.
374. Limitation-law not affected by first suit.
375. Compromise of suits.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

376. Deposit by defendant of amount in satisfaction of claim.
377. Notice of deposit.
378. Interest on sum deposited not allowed to plaintiff after receipt of notice.
379. Procedure where plaintiff accepts deposit as satisfaction in part.
Procedure where he accepts it as satisfaction in full.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

380. When security for costs may be required from plaintiff at any stage of suit.
381. Procedure where requisition is not complied with.
382. Residence out of British India.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

383. Cases in which Court may issue commission to examine witness.
384. Order for commission may be made either on application of parties or by Court of its own accord.
385. When witness resides within Court's jurisdiction.
386. When witness resides beyond Court's jurisdiction, but in British India.
When witness is within local limits of ordinary original civil jurisdiction of a High Court.
387. When witness is not within British India.
388. Court to examine witness pursuant to commission.
389. Commission when executed to be returned to Court issuing it with depositions of witnesses.
390. When depositions may be read in evidence.
391. Provisions as to execution and return of commissions to apply to commissions issued by Foreign Courts.

B.—Commissions for Local Investigations.

392. Commission to make local investigations.
393. Procedure of Commissioner.
Report and depositions to be evidence in suit.
Commissioner may be examined in person.

C.—Commissions to examine Accounts.

394. Commission to examine or adjust accounts.
395. Court to give Commissioner necessary instructions
Proceedings of Commissioner receivable in evidence.
Power to make further enquiry.

D.—Commission to make Partition.

396. Commission to make partition of non-revenue-paying immoveable property.

E.—General Provisions.

SECTIONS.

397. Expenses of commission to be paid into Court.
398. Commissioner may examine parties and witnesses and call for papers.
399. Attendance, examination and punishment of witnesses before Commissioner.
400. Procedure *ex parte* where parties do not appear.

PART III.

OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.

SUITS BY PAUPERS.

401. Suits may be brought *in formâ pauperis.*
402. What suits excepted.
403. Application to be in writing.
Contents of application.
404. Presentation of application.
405. Rejection of application.
406. Examination of applicant.
If presented by agent, Court may order applicant to be examined by commission.
407. Rejection of application.
408. Notice of day for receiving evidence of applicant's pauperism.
409. Procedure at hearing.
410. Procedure if application admitted.
411. Costs when pauper succeeds.
Recovery of court-fees.
412. Procedure when pauper fails.
413. Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.
414. Dispaupering.
415. Costs.

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against Secretary of State in Council.
417. Persons authorized to act for Government.
418. Plaints in suits by Secretary of State in Council.
419. Agent of Government to receive process.
420. Appearance and answer by Secretary of State in Council.
421. Attendance of person able to answer questions relating to suit against Government.
422. Service on public officers.
423. Extension of time to enable officer to make reference to Government.
424. Notice previous to suing Secretary of State in Council or public officer.
425. Arrests in such suits.
426. Application where Government undertakes defence.
427. Procedure where no such application made.
Defendant not liable to arrest before judgment.
428. Exemption of public officers from personal appearance.
429. Procedure where decree is against Government or a public officer.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

430. When aliens may sue.
431. When a foreign State may sue.
432. Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.
433. Suits against Sovereign Princes, &c.
Sovereign Princes, &c., exempt from arrest.
When their property may be attached.
434. Execution in British India of decrees of Courts of Native States.

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

435. Subscription and verification of plaint.
436. Service on Corporation or Company.

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437. Representation of beneficiaries in suits concerning property vested in trustees, &c.
438. Joinder of executors and administrators.
439. Husband of married executrix not to join.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

440. Minor must sue by next friend.
Costs.
441. Applications to be made by next friend or guardian *ad litem.*
442. Plaint filed without next friend to be taken off the file.
Costs.
443. Guardian *ad litem* to be appointed by the Court.
444. Order obtained without next friend or guardian may be discharged.
Costs.
445. Who may be next friend.
446. Removal of next friend.
447. Retirement of next friend.
Application for appointment of new next friend.
448. Stay of proceedings on death or removal of next friend.
449. Application for appointment of new next friend.
450. Course to be followed by minor plaintiff or applicant on coming of age.
451. Where he elects to proceed.
452. Where he elects to abandon.
453. Making and proving applications under sections 451, 452.
454. When minor co-plaintiff.
Costs.
455. When suit unreasonable or improper.
Costs.
456. Petition for appointment of guardian *ad litem.*

SECTIONS.

457. Who may be guardian *ad litem.*
458. Guardian neglecting his duty may be removed.
Costs.
459. On death or removal of guardian *pendente lite,* new guardian to be appointed.
460. When decree to be enforced against heir or representative.
461. Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.
462. Next friend or guardian *ad litem* not to compromise without leave of Court.
Compromise without leave voidable.
463. Application of sections 440 to 462 to persons of unsound mind.
464. Wards of Court.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

465. Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.
466. Person so authorized may act personally or appoint pleaders.
467. Service on person so authorized, or on his pleader, to be good service.
468. Service on officers and soldiers.
469. Execution of warrant of arrest in cantonments, &c.

CHAPTER XXXIII.

INTERPLEADER.

470. When interpleader-suit may be instituted.
471. Plaint in such suit.
472. Payment of thing claimed into Court.
473. Procedure at first hearing.
474. When agents and tenants may institute interpleader-suits.
475. Charge of plaintiff's costs.
476. Procedure where a defendant is suing stakeholder.
Costs.

PART IV.

PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

477. When plaintiff may apply that security be taken.
478. Order to bring up defendant to show cause why he should not give security.
479. If defendant fail to show cause, Court may order him to make deposit or give security.
480. Procedure in case of application by surety to be discharged.
481. Procedure where defendant fails to give security or find fresh security.
482. Subsistence of defendant arrested.

B.—Attachment before Judgment.

483. Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.
Contents of application.
SECTIONS.
484. Court may call on defendant to furnish security or show cause.
485. Attachment if cause not shown or security not furnished.
Withdrawal of attachment.
486. Mode of making attachment.
487. Investigation of claims to property attached before judgment.
488. Removal of attachment when security furnished.
489. Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.
490. Property attached under this chapter, not to be re-attached in execution of decree.

C.—Compensation for improper Arrests or Attachments.

491. Compensation for obtaining arrest or attachment on insufficient grounds.
Proviso.

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

492. Cases in which temporary injunction may be granted.
493. Injunction to restrain repetition or continuance of breach.
494. Before granting injunction, Court may direct notice to be given to opposite party.
495. Injunction to corporation binding on its members and officers.
496. Order for injunction may be discharged, varied or set aside.
497. Compensation to defendant for issue of injunction on insufficient grounds.
Proviso.

B.—Interlocutory Orders.

498. Power to order interim sale of perishable articles.
499. Power to make order for detention, &c., of subject-matter and to authorize entry, taking of samples and experiments.
500. Application for such orders to be after notice.
501. When party may be put in immediate possession of land, the subject of suit.
502. Deposit of money, &c., in Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS.

503. Power of Court to appoint Receivers.
Receiver's liabilities.
504. When Collector may be appointed Receiver.
505. Courts empowered under this chapter.

PART V.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.

REFERENCE TO ARBITRATION.

506. Parties to suit may apply for order of reference.

SECTIONS.
507. Nomination of arbitrator.
When Court to nominate arbitrator.
508. Order of reference.
509. When reference is to two or more, order to provide for difference of opinion.
510. Death, incapacity, &c., of arbitrators or umpire.
511. Appointment of umpire by Court.
512. Powers of arbitrator or umpire appointed under sections 509, 510, 511.
513. Summoning witnesses.
Punishment for default, &c.
514. Extension of time for making award.
515. When umpire may arbitrate in lieu of arbitrators.
516. Award to be signed and filed.
517. Arbitrators or umpire may state special case.
518. Court may, on application, modify or correct award in certain cases.
519. Order as to costs of arbitration.
520. When award or matter referred to arbitration may be remitted.
521. Grounds for setting aside award.
522. Judgment to be according to award.
Decree to follow.
523. Agreement to refer to arbitration may be filed in Court.
Application to be numbered and registered.
Notice to show cause against filing it.
524. Provisions of this chapter applicable to proceedings under order of reference.
525. Filing award in matter referred to arbitration without intervention of Court.
Application to be numbered and registered.
Notice to parties to arbitration.
526. Filing and enforcement of such award.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Power to state case for Court's opinion.
528. When value of subject-matter must be stated.
529. Agreement to be filed and numbered as a suit.
530. Parties to be subject to Court's jurisdiction.
531. Hearing and disposal of the case.

CHAPTER XXXIX.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

532. Institution of summary suits upon bills of exchange, &c.
Payment into Court of sum mentioned in summons.
533. Defendant showing defence on merits to have leave to appear.
534. Power to set aside decree.
535. Power to order bill to be deposited with officer of Court.
536. Recovery of cost of noting non-acceptance of dishonoured bill.
537. Procedure in suits under this chapter.
538. Power to extend this chapter.

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

539. When suit relating to public charities may be brought.

PART VI.

OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

SECTIONS.
540. Appeal to lie from all original decrees, except when expressly prohibited.
541. Form of appeal.
Memorandum to be accompanied by copy of decree and judgment.
Memorandum of appeal.
542. Appellant confined to grounds set out.
543. Rejection of memorandum or grounds of objection.
544. One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

Of staying and executing Decrees under Appeal.

545. Execution of decree not stayed solely by reason of appeal.
Stay of execution of appealable decree before time for appealing has expired.
Security required before making order to stay execution.
546. Security in case of order for execution of decree appealed against.
547. No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

548. Registry of memorandum of appeal.
549. Appellate Court may require appellant to give security for costs.
When appellant resides out of British India.
550. Appellate Court to give notice to Court whose decree is appealed against.
Transmission of papers to Appellate Court.
Copies of exhibits in Court whose decree is appealed against.
551. Power to confirm decision of lower Court without sending it notice.
552. Day for hearing appeal.
553. Publication and service of notice of day for hearing appeal.
Appellate Court may itself cause notice to be served.
554. Contents of notice.

Procedure on Hearing.

555. Right to begin.
556. Dismissal of appeal for appellant's default.
Hearing appeal *ex parte*.
557. Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.
Proviso.
558. Re-admission of appeal dismissed for default.
559. Power to adjourn hearing, and direct persons appearing interested to be made respondents.
560. Re-hearing on application of respondent against whom *ex parte* decree is made.
561. Upon hearing respondent may object to decree as if he had preferred separate appeal.
Form of notice, and provisions applicable thereto.

SECTIONS.
562. Remand of case by Appellate Court.
563. When further evidence barred.
564. Limit to remand.
565. When evidence on record sufficient, Appellate Court shall determine case finally.
566. When Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.
567. Finding and evidence to be put on record.
Objections to finding.
Determination of appeal.
568. Production of additional evidence in Appellate Court.
569. Mode of taking additional evidence.
570. Points to be defined and recorded.

Of the Judgment in Appeal.

571. Judgment when and where pronounced.
572. Language of judgment.
573. Translation of judgment.
574. Contents of judgment.
Date and signature.
575. Decision when appeal is heard by two or more Judges.
576. Dissent to be recorded.
577. What judgment may direct.
578. No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

Of the Decree in Appeal.

579. Contents of decree.
Judge dissenting from judgment need not sign decree.
580. Copies of Judgment and decree to be furnished to parties.
581. Certified copy of decree to be sent to Court whose decree is appealed against.
582. Appellate Court to have same powers as Courts of original jurisdiction.
583. Execution of decree of Appellate Court.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECREES.

584. Second appeals to High Court.
Grounds of second appeal.
585. Second appeal only on grounds mentioned in section 584.
586. No second appeal in certain suits.
587. Provisions as to second appeals.

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

588. Orders appealable.
589. Court which shall hear appeals.
590. Procedure in appeals from orders.
591. No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

CHAPTER XLIV.

OF PAUPER APPEALS.

592. Who may appeal as pauper.
593. Procedure on application for admission of appeal.
594. Enquiry into pauperism.
Proviso.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

SECTIONS.
594. 'Decree' defined.
595. When appeals lie to Queen in Council.
596. Value of subject-matter.
597. Bar of certain appeals.
598. Application to Court whose decree is complained of.
599. Time within which application must be made.
600. Certificate as to value or fitness.
601. Effect of refusal of certificate.
602. Security and deposit required on grant of certificate.
603. Admission of appeal and procedure thereon.
604. Revocation of acceptance of security.
605. Power to order further security or payment.
606. Effect of failure to comply with order.
607. Refund of balance of deposit.
608. Powers of Court pending appeal.
609. Increase of security found inadequate.
610. Procedure to enforce orders of Queen in Council.
611. Appeal against order relating to execution.
612. Power to make rules.
Publication of rules.
613. Legalization of existing rules.
614. Recorder of Rangoon.
615. Construction of Bengal Regulation III of 1828, section 4, clause 5.
616 Saving of Her Majesty's pleasure, and of rules for conduct of business before Judicial Committee.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

SECTIONS.
617. Reference of question to High Court.
618. Court may pass decree contingent upon opinion of High Court.
619. Judgment of High Court to be transmitted, and case disposed of accordingly.
620. Costs of reference to High Court.
621. Power to alter, &c., decrees of Court making reference.
622. Power to call for record of cases decided by Small Cause Courts, or, on appeal, by subordinate Courts.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

623. Application for review of judgment.
624. To whom applications for review may be made.
625. Form of applications for review.
626. Application when rejected.
Application when granted.
Proviso.
627. Application for review in Court consisting of two or more Judges.
628. Application when rejected.

SECTIONS.

629. Order of Court final.

630. Registry of application granted, and order for re-hearing.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This part to apply only to certain High Courts.

632. Application of Code to High Courts.

633. High Court to record judgments according to its own rules.

634. Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

635. Attorneys not to address Court except when authorized.

636. Process of High Courts may be served by attorneys in suit.

637. Non-judicial acts may be done by Registrar.

638. Sections not applying to High Court in original civil jurisdiction.
Code not to affect High Court in exercise of insolvent jurisdiction.

639. Power to frame forms.

PART X.

CHAPTER XLIX.

MISCELLANEOUS.

640. Exemption of certain women from personal appearance.

641. Local Government may exempt certain persons from personal appearance.
List of names of persons exempted to be kept in Subordinate Court.
Costs of commission rendered necessary by claiming privilege.

642. Persons exempt from arrest.

643. Procedure in case of certain offences relating to documents.

644. Use of forms in fourth schedule.

645. Language of subordinate Courts.

646. Power of Registrars of Small Cause Courts to state cases.

647. Miscellaneous proceedings.
Admission of affidavits as evidence.

648. Procedure when person to be arrested or property to be attached is outside the district.

649. Rules applicable to all civil process for sale or payment.

650. Application of rules as to witnesses.

651. Penalty for escaping from custody under Code.

652. Power to make subsidiary rules of procedure.

THE FIRST SCHEDULE.—*A.*—Statute repealed.
B.—Acts repealed.
C.—Regulation repealed.

THE SECOND SCHEDULE.—Chapters and sections extending to Mufassal Courts of Small Causes.

THE THIRD SCHEDULE.—Bombay enactments.

THE FOURTH SCHEDULE.—Forms.

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

Preamble.

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

PRELIMINARY.

Short title.

Commencement.

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

Local extent.

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

Interpretation-clause.

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

"chapter." "chapter" means a chapter of this Code:

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

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

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

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

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

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

"Judge." "Judge" means the presiding officer of a Court:

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

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

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

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

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

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

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

Every Judge;

Every covenanted servant of Her Majesty;

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

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

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

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

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

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

"Government."

Enactments repealed.

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

References in previous Acts.

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

Saving of procedure in suits instituted before 1st October 1877.

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

Saving of certain Acts affecting Oudh, Panjáb, Central Provinces and Burma.

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

The Central Provinces Courts Act, 1865:
The Panjáb Courts Act, 1865:
Act No. XXVII of 1867:
The Oudh Civil Courts Act, 1871:
The Panjáb Appeals Act, 1873:
The Burma Courts Act, 1875:
or any local law prescribing a special procedure for suits between landlord and tenant,
or any local law providing for the partition of immoveable property.

And where under any of the said Acts concurrent civil jurisdiction is given to the Commissioner and the Deputy Commissioner, the Local Government may declare which of such officers shall for the purposes of this Code be deemed to be the District Court.

Sections extending to Mufassal Small Cause Courts.

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

Saving of jurisdiction and procedure—

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

(*a*) of Military Courts of Request;

(*a*) of Military Courts of Request;

(*b*) of officers appointed to try small suits in Bombay;

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

(*c*) of Village Munsifs and Village Panchávats in Madras

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

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

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

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

7. With respect to—

Saving of certain Bombay laws.

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

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

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

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

Presidency Small Cause Courts.

But the Local Government may, by notification published in the official Gazette, extend to any such Court this Code or any part thereof, except so far as relates to appeals and reviews of judgment.

Division of Code.

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

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

PART I.

OF SUITS IN GENERAL.

CHAPTER I.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

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

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

Courts to try all civil suits unless specially barred.

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

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

Staying suits.

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

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

Res judicata.

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

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

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

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

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

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

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

When foreign judgment no bar to suit in British India.

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

(*a*) if it has not been given on the merits of the case:

(*b*) if it appears on the face of the proceedings to be founded on an incorrect view of international law or of any law in force in British India:

(*c*) if it is in the opinion of the Court before which it is produced contrary to natural justice:

(*d*) if it has been obtained by fraud:

(*e*) if it sustains a claim founded on a breach of any law in force in British India.

CHAPTER II.

OF THE PLACE OF SUING.

Court in which suit to be instituted.

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

Suits to be instituted where subject-matter situate.

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

(*a*) for the recovery of immoveable property,

(*b*) for the partition of immoveable property,

(*c*) for the foreclosure or redemption of a mortgage of immoveable property,

(*d*) for the determination of any other right to or interest to or in immoveable property,

(*e*) for compensation for wrong to immoveable property,

(*f*) for the recovery of moveable property actually under distraint or attachment,

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

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

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

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

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

(*a*) the cause of action arises, or

(*b*) all the defendants, at the time of the commencement of the suit, actually and voluntarily reside, or carry on business, or personally work for gain; or

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

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

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

Illustrations.

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

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

Suits for compensation for wrongs to person or moveables.

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

Illustrations.

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

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

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

Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.

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

Suits for immoveable property situate in different districts.

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

Power to stay proceedings where all defendants do not reside within jurisdiction.

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

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

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

Application when to be made.

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

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

Remission of court-fee where suit instituted in another Court.

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

Procedure where Courts in which suit may be instituted are subordinate to the same appellate Court.

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

Procedure where they are not so subordinate.

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

Procedure where they are subordinate to different High Courts.

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

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

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

Transfer of suits.

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

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

CHAPTER III.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

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

Persons who may be joined as plaintiffs.

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

Court may substitute or add plaintiff for or to plaintiff suing.

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

Persons who may be joined as defendants.

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

Joinder of parties liable on same contract.

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

One party may sue or defend on behalf of all in same interest.

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

Suit not to fail by reason of misjoinder.

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

32. The Court may, on or before the first hearing, upon the application of either party, and on such terms as the Court thinks just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out; and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

Court may dismiss or add parties.

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

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

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

Parties to suits instituted or defended under section 30.

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

Defendants added to be served.

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

Conduct of suit.

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

Where defendant added, plaintiff to amend.

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

Time for taking objections as to non-joinder or misjoinder of parties.

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

Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.

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

Authority to be in writing signed and filed.

Recognized Agents and Pleaders.

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

Appearances, &c., may be in person, by recognized agent or by pleader.

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

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

Recognized agents.

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

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

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

Certificated mukhtárs.

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

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

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

Recognized agents in Panjáb, Oudh and Central Provinces.

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

Service of process on recognized agent.

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

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

Appointment of pleader.

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

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

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

Service of process on pleader.

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

Agent to receive process.

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

His appointment to be in writing and to be filed in Court.

CHAPTER IV.

OF THE FRAME OF THE SUIT.

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

Suit how to be framed.

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

Suit to include the whole claim.

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

Relinquishment of part of claim.

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

Omission to sue for one of several remedies.

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years 1874 and 1875 is due and unpaid. A sues B only for the rent due for 1875. A shall not afterwards sue B for the rent due for 1876.

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

Only certain claims to be joined with suit for recovery of land.

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

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

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

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

Claims by or against executor, administrator, or heir.

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

Plaintiff may join several causes of action.

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

Court may order separation.

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

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

Defendant may apply to confine suit.

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

Court on hearing application may exclude some causes and order amendment.

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

CHAPTER V.

OF THE INSTITUTION OF SUITS.

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

Suits to be commenced by plaint.

49. The plaint must be distinctly written in the language of the Court; provided that if such language is not English, the plaint may (with the permission of the Court) be written in English; but in such case, if the defendant so require, a translation of the plaint into the language of the Court shall be filed in court.

Language of plaint.

50. The plaint must contain the following particulars:—

Particulars to be contained in plaint.

(*a*) the name of the Court in which the suit is brought;

(*b*) the name, description and place of abode of the plaintiff;

(*c*) the name, description and place of abode of the defendant, so far as they can be ascertained:

(*d*) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(*e*) a demand of the relief which the plaintiff claims; and

(*f*) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

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

In money-suits.

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

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

Where plaintiff sues as a representative.

Illustrations.

(*a*) A sues as B's executor. The plaint must state that A has proved B's will.

(*b*) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(*c*) A sues as guardian of D, a Muhammadan minor. A is not D's guardian according to Muhammadan law and usage. The plaint must state that A has been specially appointed D's guardian.

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

Defendant's interest and liability to be shewn.

Illustration.

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

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

Grounds of exemption from limitation law.

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

Plaint to be subscribed and verified.

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

Contents of verification.

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

Verification to be signed and attested.

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

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

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

(*a*) if it do not state correctly and without prolixity the several particulars hereinbefore required to be specified therein; or

(*b*) if it contain any particulars other than those so required; or

(*c*) if it be not subscribed and verified as hereinbefore required; or

(*d*) if it do not disclose a cause of action; or

(*e*) if it is not framed in accordance with section 42; or

(*f*) if it is wrongly framed by reason of non-joinder or misjoinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same suit.

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

Proviso.

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

Attestation of amendment.

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

When the plaint shall be rejected.

(*a*) if the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so:

(*b*) if the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(*c*) if the suit appear from the statement in the plaint to be barred by any positive rule of law:

(*d*) if the plaint having been returned for amendment within a time fixed by the Court is not amended within such time.

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

Procedure on rejecting a plaint.

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

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

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

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

(*a*) If a suit has been instituted in a Court whose grade is lower or higher than that of the Court competent to try it, where such Court exists, or where no option as to the selection of the Court is allowed by law:

(*b*) If, in a suit relating to immoveable property, but not coming under the proviso to section 16, it appear that no part of such property is situate within the local limits of the jurisdiction of the Court to which the plaint is presented:

(*c*) If, in any other case, it appear that the cause of action did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

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

Procedure on returning plaint.

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

Procedure on admitting plaint.

Concise statements.

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

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

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

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

Register of suits.

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

Production of document on which plaintiff sues.

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

List of other documents.

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

Statement in case of documents not in his possession or power.

61. In case of any suit founded upon a bill of exchange or other negotiable instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Suits on lost negotiable instruments.

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

Production of shop-book.

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

Original entry to be marked and returned.

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

Inadmissibility of document not produced when plaint filed.

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

CHAPTER VI.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

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

Summons.

(*a*) in person, or

(*b*) by a pleader duly instructed and able to answer all material questions relating to the suit, or

(*c*) by a pleader accompanied by some other person able to answer all such questions.

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

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

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

Copy or statement annexed to summons.

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

Court may order defendant or plaintiff to appear in person.

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

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

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

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

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

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

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

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

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

Fixing day for appearance of defendant.

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

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

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

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

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

Service of Summons.

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

Delivery of summons for service.

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

Mode of service.

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

Service on several defendants.

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

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

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

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

Service on agent by whom defendant carries on business.

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

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

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

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

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

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

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

Person served to sign acknowledgment.

Procedure when defendant refuses to accept service,

80. If the defendant or other person refuse to sign the acknowledgment or to receive the copy of the summons,

or cannot be found.

or if the serving-officer cannot find the defendant, and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

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

Endorsement of time and manner of service.

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

Examination of serving officer.

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

Substituted service.

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

Effect of substituted service.

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

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

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

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

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

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

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

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

and such Court of Small Causes shall deal with such process in the same manner as if the process had been issued by itself,

and shall then return the process to the Court from which it issued.

Service on defendant in jail.

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

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

Procedure if jail be in a different district.

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

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

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

Service through British Resident or Agent of Government.

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

Substitution of letter for summons.

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

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

Mode of sending such letter.

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

Service of Process.

Process to be served at expense of party issuing it.

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

Costs of service.

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

Notices and orders in writing how served.

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

Postage.

Postage.

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

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

Parties to appear on day fixed in summons for defendant to appear and answer.

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

Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing it.

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

Proviso.

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

If neither party appear, suit to be dismissed.

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

In such case plaintiff may bring fresh suit; or Court may restore the suit to its file.

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

Procedure if only plaintiff appear. when summons was duly served.

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

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

when summons not duly served.

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

when summons served, but not in due time.

(*c*) If it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

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

Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.

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

Procedure where defendant only appears.

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

Decree against plaintiff by default bars fresh suit.

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

to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

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

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

Procedure where defendant residing out of British India does not appear.

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

Procedure in case of non-attendance of one or more of several plaintiffs.

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

Procedure in case of non-attendance of one or more of several defendants.

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

Consequence of non-attendance, without sufficient cause shewn, of party ordered to appear in person.

Of setting aside Decrees ex parte.

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

Setting aside decree *ex parte* against defendant.

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

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

No decree to be set aside, without notice to opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

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

Written statements.

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

Particulars of set-off to be given in written statement.

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

Inquiry.

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

Effect of set-off.

Illustrations.

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

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

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

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

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

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

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

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

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

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

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

Court may at any time call for written statement.

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

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

Procedure when party fails to present written statement called for by Court.

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

Frame of written statements.

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

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

Written statements to be subscribed and verified.

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

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

Rejection of argumentative, prolix or irrelevant written statements.

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

Attestation of amendments.

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

Effect of rejection.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. At the first hearing of the suit, the Court shall ascertain from the defendant or his pleader whether he admits or denies the allegations of fact made in the plaint and shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

Ascertainment from each party whether allegations in written statements are admitted or denied.

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

Oral examination of party, or companion of himself or his pleader.

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

Substance of examination to be written.

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

Consequence of refusal or inability of pleader to answer.

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

CHAPTER X.

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

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

Power to deliver interrogatories.

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

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

Service of interrogatories.

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

Inquiry into propriety of exhibiting interrogatories.

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

Service of interrogatories on officer of corporation or company.

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

Power to strike out interrogatories as irrelevant, &c.

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

Time for filing affidavit in answer.

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

Procedure where a party omits to answer sufficiently.

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

Power to demand admission of genuineness of documents.

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

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

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

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

Application for order for discovery of document.

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

Affidavit in answer to such order.

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

Power to order production of documents during suit.

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

Notice to produce for inspection documents referred to in plaint, &c.

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

Consequence of non-compliance with such notice.

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

Party receiving such notice to deliver notice when and where inspection may be had.

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

Application for order of inspection.

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

Application to be founded on affidavit.

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

Power to order issue or question on which right to discovery depends to be first determined.

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

Consequences of failure to answer or give inspection.

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

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

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

Court may send for papers from its own records or from other Courts.

Every application made under this section shall (unless the Court otherwise directs) be supported by an affidavit of the applicant or his pleader, shewing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

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

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

Documentary evidence to be in readiness at first hearing.

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

Effect of non-production of documents.

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

Documents to be received by Court.

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

Rejection of irrelevant or inadmissible documents.

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

No documents to be placed on record unless proved.

Proved documents to be marked and filed.

Provided that, if the document be an entry in a shop-book or other book, the party on whose behalf such book is produced may furnish a copy of the entry, which may be endorsed as aforesaid, and shall be filed as part of the record, and the Court shall mark the entry and shall then return the book to the person producing it.

Entries in shop-books.

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

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

Rejected documents to be marked,

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

and returned, unless detained by Court.

Court may order any document to be impounded.

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

After lapse of time for appeal, document admitted in evidence may be returned.

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

When document may be returned before time limited.

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

Document not to be returned in certain cases.

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

Receipt to be given for returned document.

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

Provisions as to documents applied to material objects.

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

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

Framing of issues.

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

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

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

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

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

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

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

Allegations from which issues may be framed.

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

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

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

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

Court may examine witnesses or documents before framing issues.

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

Power to amend, add and strike out issues.

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

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

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

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

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

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

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

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

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

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

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

(*c*) that the same is fit to be tried and decided,

it may proceed to record and try the issue, and state its finding or opinion thereon in the same manner as if the issue had been framed by the Court;

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

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

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

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

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

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

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

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

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

Court may determine issue and pronounce judgment.

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

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

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

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

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

Procedure where Court cannot pronounce judgment at first hearing.

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

CHAPTER XIII.

OF ADJOURNMENTS.

Court may grant time, or adjourn hearing.

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

Costs of adjournment.

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

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

Procedure if parties fail to appear on day fixed.

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

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

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

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

Summons to attend to give evidence or produce documents.

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

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

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

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

Scale of expenses.

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

Tender of expenses to witness.

162. If it appear to the Court or to such officer as it appoints in this behalf that the sum paid into court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account; and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Procedure where insufficient sum paid in.

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

Expenses if witness detained more than one day.

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

Time, place, and purpose of attendance to be specified in summons.

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

Summons to produce document.

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

Power to require persons present in Court to give evidence.

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

Summons how served.

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

Time for serving summons.

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

Attachment of property of absconding witness.

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

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

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

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

If witness appears, attachment may be withdrawn.

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

Procedure if witness fails to appear.

purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of the said fine, if any:

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

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

Court may of its own accord summon as witnesses strangers to suit.

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

Persons summoned to give evidence must attend.

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

When they may depart.

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

Consequences of non-attendance.

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

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

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

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

Consequences of refusal to give evidence or produce documents.

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

Procedure when witness absconds.

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

Person summoned to attend in person if so required.

(*a*) within the local limits of its ordinary original jurisdiction, or

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

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

Consequence of refusal of party to give evidence when called on by the Court.

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

Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

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

Statement and production of evidence by party having right to begin.

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

Rules as to right to begin.

180. The other party shall then state his case and produce his evidence (if any). The party beginning is then entitled to reply.

Statement and production of evidence by other party.

Reply by party beginning.

Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other

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

Witnesses to be examined in open Court.

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

How evidence shall be taken in appealable cases.

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

When witness may require his deposition to be interpreted.

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

Memorandum when evidence is not taken down by Judge.

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

When evidence may be taken in English.

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

Any particular question and answer may be taken down.

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

Questions objected to.

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

Remarks on demeanour of witnesses.

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

Memorandum of evidence in unappealable cases.

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

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

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

Every memorandum so made shall form part of the record.

Power to deal with evidence taken down by Judge removed before conclusion of suit.

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

Power to examine witness immediately.

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

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

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

Court may recall and examine witness.

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

CHAPTER XVI.

OF AFFIDAVITS.

Power to order any point to be proved by affidavit.

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

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

be made authorizing the evidence of such witness to be given by affidavit.

When evidence may be given by affidavit.

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

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

Matters to which affidavits shall be confined.

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

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

Oath of declarant by whom to be administered.

197. In the case of any affidavit under this Code—

(*a*) any Court or Magistrate, or

(*b*) any officer whom a High Court may appoint in this behalf, or

(*c*) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf,

may administer the oath of the declarant.

CHAPTER XVII.

OF JUDGMENT AND DECREE.

Judgment when pronounced.

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

Power to pronounce judgment written by Judge's predecessor.

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

Language of judgment.

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

Translation of judgment.

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

Judgment to be dated and signed.

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

Judgments of Small Cause Courts.

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

Judgments of other Courts.

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

Court to state its decision on each issue.

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

Exception

Date of decree.

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

Contents of decree.

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

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

Power to amend decree.

If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error be found in the decree, the Court shall, of its own motion or on that of any of the parties, amend the decree so as to bring it into conformity with the judgment or to correct such error: provided that reasonable notice have been given to the parties or their pleaders of the proposed amendment.

Decree for recovery of portion of immoveable property.

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

Decree for delivery of moveable property.

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

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

209. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date

of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

Payment by instalments.

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

When Court may order payment by instalments.

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

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

In suits for land, Court may decree payment of mesne profits with interest.

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

Explanation.—'Mesne profits' of property mean those profits which the person in wrongful possession of such property actually received, or might with ordinary diligence have received, therefrom.

Court may determine amount of mesne profits prior to passing decree, or may reserve inquiry.

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

Administration-suit.

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

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

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

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

Suit to enforce right of pre-emption.

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

Suit for dissolution of partnership.

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

If set-off be allowed.

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

Effect of decree.

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

Certified copies of decree and judgment to be furnished.

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

CHAPTER XVIII.

OF COSTS.

Costs of applications.

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

Judgment to direct by whom costs are to be paid.

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

Power of Court as to costs.

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

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

Costs may be set-off against sum admitted or found to be due.

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

Saving of pleader's lien.

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

Interest on costs.
Payment of costs out of subject-matter.

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

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

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

Court by which decree may be executed.

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

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

(*a*) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(*b*) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(*c*) if the decree direct the sale of immoveable property situate outside the district within which the Court which passed it is situate, or

(*d*) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

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

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

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

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

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

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

(*a*) a copy of the decree;

(*b*) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted; and

(*c*) a copy of any order for the execution of the decree, and if no such order has been made, a certificate to that effect.

Court receiving copies of decree, &c., to file same without proof.

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

Execution of decree or order by Court to which it is sent.

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

Execution by High Court, of decree transmitted by other Court.

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

Appeal from orders for execution of decrees of other Courts.

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

Decrees of Courts established by Government of India in Native States.

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

B.—Of Application for Execution.

230. When the holder of a decree desires to enforce it, he shall apply to the Court which passed the decree or to the officer, if any, appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court, then to such Court or to the proper officer thereof.

Application for execution.

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

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

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

(*a*) the date of the decree sought to be enforced, or of the decree (if any) on appeal affirming the same, or

(*b*) where the decree or any subsequent order directs the payment of money or the delivery of property by instalments,—the date of the default in paying or delivering the instalment in respect of which the applicant seeks to enforce the decree.

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

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

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

Application by joint decree-holder.

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

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

Application by transferee of decree.

and subject to the same conditions as if the application were made by such decree-holder:

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

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

233. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Transferee to hold subject to equities enforceable against original holder.

234. If a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

If judgment-debtor die before execution, application may be made against his representative.

Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Court executing the decree may of its own motion, or on the application of the decree-holder, compel the said representative to produce such accounts as it thinks fit.

235. The application for the execution of a decree shall be in writing, verified in manner hereinbefore provided for the verification of plaints, and shall contain in a tabular form the following particulars (namely)—

Contents of application for execution of decree.

(*a*) the number of the suit;

(*b*) the names of the parties;

(*c*) the date of the decree;

(*d*) whether any appeal has been preferred from the decree;

(*e*) whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree;

(*f*) whether any and what previous applications have been made for execution of the decree and with what result;

(*g*) the amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby;

(*h*) the amount of costs, if any, awarded;

(*i*) the name of the person against whom the enforcement of the decree is sought; and

(*j*) the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

236. If the application be for the attachment of any moveable property belonging to the judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

Application for attachment of moveable property to be accompanied with inventory.

237. If the application be for the attachment of any immoveable property belonging to the judgment-debtor, it shall contain at the foot a description of the property sufficient to identify it, and also a specification of the judgment-debtor's share or interest therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

Further particulars when application is for attachment of immoveable property.

Every such description and specification shall be verified in manner hereinbefore provided for the verification of plaints.

238. If the property be land registered in the Collector's office, the application for attachment shall be accompanied by an authenticated extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for such land, and the shares of the registered proprietors.

When application must be accompanied by extract from Collector's register.

C.—Of staying Execution.

239. The Court to which a decree has been sent for execution under this chapter, shall upon sufficient cause being shewn, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was made, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto;

When Court may stay execution.

and in case the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution or discharge of such property or person pending the result of the application for such order.

240. Before passing an order under section 239, to stay execution, or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

Power to require security from, or impose conditions upon, judgment-debtor.

241. No discharge under section 239 of the property or person of a judgment-debtor, shall prevent it or him from being retaken in execution of the decree sent for execution.

Liability of judgment-debtor discharged to be retaken.

242. Any order of the Court by which the decree was passed or of such Court of appeal as aforesaid, in relation to the execution of such decree shall be binding upon the Court to which the decree was sent for execution.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

243. If a suit be pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may (if it think fit) stay execution on the decree, either absolutely or on such terms as it thinks fit, until the pending suit has been decided.

Stay of execution pending suit between decree-holder and judgment-debtor.

D.—Questions for Court executing decree.

244. The following questions shall be determined by order of the Court executing a decree and not by separate suit (namely)—

Question to be decided by Court executing decree.

(*a*) questions regarding the amount of any mesne profits as to which the decree has directed inquiry;

(*b*) questions regarding the amount of any mesne profits or interest which the decree has made payable in respect of the subject-matter of a suit between the date of its institution and the execution of the decree, or the expiration of three years from the date of the decree;

(*c*) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution of the decree.

Nothing in this section shall be deemed to bar a separate suit for *mesne* profits accruing between the institution of the first suit and the execution of the decree therein, where such profits are not dealt with by such decree.

E.—Of the mode of executing Decrees.

245. The Court, on receiving an application for the execution of a decree, shall ascertain whether it contains the particulars mentioned in section 235, or such of them as may be applicable to the case, and whether it is accompanied by the inventory mentioned in section 236; and if such particulars or inventory are or is wanting, it shall reject the application or return it for amendment or for the addition of the inventory, as the case may be, or amend it then and there. Every amendment made under this section shall be attested by the signature of the Judge.

Procedure on receiving application for execution of decree.

When the application is admitted, the Court shall enter in the register of the suit a note of the application and the date on which it was made, and shall order execution of the decree according to the nature of the application:

Procedure on admitting application.

Provided that, in the case of a decree for money, the value of the property attached shall as nearly as may be correspond with the amount for which the decree has been made.

246. If cross-decrees between the same parties for the payment of money be produced to the Court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

Cross-decrees.

If the two sums be equal, satisfaction shall be entered upon both decrees.

Explanation I.—The decrees contemplated by this section are (*a*) decrees made by the same Court, (*b*) decrees sent to the same Court for execution, and (*c*) decrees of which one is made by the Court and the other is sent to the same Court for execution; but not (*d*) decrees of which one is made by one Court and the other is made by another Court and not sent for execution to the former Court.

Explanation II.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as by the assignee himself.

Explanation III.—This section does not apply unless

(*e*) both decrees are capable of execution at the same time;

(*f*) the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits; and

(*g*) the sums due under the decrees are definite.

Illustrations.

(*a*) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(*b*) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this section.

(*c*) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this section.

247. When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party; but satisfaction for the smaller sum shall be entered on the decree.

Cross-claims under same decree.

When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

248. The Court shall issue a notice to the party against whom execution is applied for, requiring him to shew cause, within a period to be fixed by the Court, why the decree should not be executed against him,

Notice to show cause why decree should not be executed.

(*a*) if more than one year has elapsed between the date of the decree and the application for its execution, or

(*b*) if the enforcement of the decree be applied for against the legal representative of a party to the suit in which the decree was made:

Proviso.

Provided that no such notice shall be necessary

in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed or of the last order against the party against whom execution is applied for passed on any previous application for execution, or

in consequence of the application being against the legal representative of the judgment-debtor, if upon a previous application for execution against the same person, the Court has ordered execution to issue against him.

Explanation.—In this section the phrase "the Court" means the Court by which the decree was passed, unless the decree has been sent to another Court for execution, in which case it means such other Court.

249. If the person to whom notice is issued under the last preceding section does not appear, or does not shew cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

Procedure after issue of notice.

If he offers any objection to the enforcement of the decree, the Court shall consider such objection and pass such order as it thinks fit.

250. When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court, unless it sees cause to the contrary, shall issue its warrant for the execution of the decree.

Warrant when to issue.

251. Such warrant shall be dated the day on which it is issued, signed by the Judge or such officer as the Court appoints in this behalf, sealed with the seal of the Court, and delivered to the proper officer to be executed.

Date, signature, seal and delivery.

And a day shall be specified in such warrant on or before which it must be executed, and the proper officer shall endorse thereon the day and manner in which it was executed, or if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

252. If the decree be against a party as the legal representative of a deceased person, and the decree be for money to be paid out of the property of the deceased, it may be executed by the attachment and sale of any such property.

Decree against representative of deceased for money to be paid out of deceased's property.

If no such property can be found, and the judgment-debtor fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by

him, in the same manner as if the decree had been against him personally.

253. Whenever a person has, before the passing of a decree in an original suit, become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant:

Decree against surety.

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

254. Every decree or order directing a party to pay money, as compensation, or costs, or as the alternative to some other relief granted by the decree or order, or otherwise, may be enforced by the imprisonment of the judgment-debtor, or by the attachment and sale of his property in manner hereinafter provided, or by both.

Decree for money.

255. If the decree be for mesne profits or any other matter the amount of which in money is to be subsequently determined, the property of the judgment-debtor may, before the amount due from him under the decree has been ascertained, be attached as in the case of an ordinary decree for money.

Decree for mesne profits or other matter, amount of which to be subsequently ascertained.

256. When a decree is passed for a sum of money only, and the amount decreed does not exceed the sum of one thousand rupees, the Court may, when passing the decree, on the oral application of the decree-holder, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court, or against his moveable property within the same limits.

Power to direct immediate execution of decree for money not exceeding Rs. 1,000.

257. All money payable under a decree shall be paid as follows (namely)—

Modes of paying money under decree.

(*a*) into the Court whose duty it is to execute the decree; or

(*b*) out of Court to the decree-holder; or

(*c*) otherwise as the Court which made the decree directs.

258. If the money is paid out of Court or the decree is otherwise adjusted to the satisfaction of the decree-holder, he shall certify the payment or adjustment to the Court whose duty it is to execute the decree; and no satisfaction of a decree in part or in whole by such payment or adjustment shall be recognized by such Court unless the payment or adjustment be certified as aforesaid. Where the decree-holder fails to certify as aforesaid, the judgment-debtor may apply to such Court for an order directing the decree-holder to certify as aforesaid, and the Court, after hearing the decree-holder, may make such order, and if the decree-holder disobeys the same, may refuse further to excute the decree.

Payment of money out of Court to decree-holder.

259. If the decree be for any specific moveable, or for any share in a specific moveable, or for the recovery of a wife, it may be enforced by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the imprisonment of the judgment-debtor, or by attaching his property and keeping the same under attachment until the further order of the Court, or by both imprisonment and attachment, if necessary.

Decrees for specific moveables, or recovery of wives.

No attachment under this section shall remain in force for more than six months, at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and pay the balance, if any, to the judgment-debtor on his application.

260. When the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for the performance of any other particular act, has been made, has had an opportunity of obeying the decree or injunction and has wilfully failed to obey it, the decree may be enforced by his imprisonment, or by the attachment of his property, or by both.

Decree for specific performance or restitution of conjugal rights.

No attachment under this section shall remain in force for more than one year, at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit and may pay the balance, if any, to the judgment-debtor on his application.

261. If the decree be for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to comply with the decree, the decree-holder may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and deliver the same to the Court.

Decree for execution of conveyances, or endorsement of negotiable instruments.

The Court shall thereupon cause the draft to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing stating that his objections, if any, thereto shall be made within such time (mentioning it) as the Court fixes in this behalf.

The decree-holder may also tender a duplicate of the draft to the Court for execution upon the proper stamp-paper, if a stamp is required by law.

On proof of such service, the Court, or such officer as it appoints in this behalf, shall execute the duplicate so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree, and execute the duplicate so altered:

Provided that if any party object to the draft so served as aforesaid, his objections shall, within

the time so fixed, be stated in writing and argued before the Court, and the Court shall thereupon pass such order as it thinks fit, and execute, or alter and execute, the duplicate in accordance therewith.

262. The execution of a conveyance or the endorsement of a negotiable instrument by the Court under the last preceding section may be in the following form: "*C. D.*, Judge of the Court of *(or as the case may be)*, for *A. B.*, in a suit by *E. F.*, against *A. B.*," or in such other form as the High Court may from time to time prescribe, and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same.

Form and effect of execution of conveyance by Court.

263. If the decree be for the delivery of any immoveable property, possession thereof shall be delivered over to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, and, if need be, by removing any person bound by the decree who refuses to vacate the property.

Decree for immoveable property.

264. If the decree be for the delivery of any immoveable property in the occupancy of a tenant or other person entitled to occupy the same, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum, or in such other mode as is customary, at some convenient place, the substance of the decree in regard to the property:

Delivery of immoveable property when in occupancy of tenant.

Provided that if the occupant can be found, a notice in writing containing such substance shall be served upon him, and in such case no proclamation need be made.

265. If the decree be for the partition or for the separate possession of a share of an undivided estate paying revenue to Government, the partition of the estate or the separation of the share shall be made by the Collector.

Partition of estate or separation of share.

F.—Of Attachment of Property.

266. The following property is liable to attachment and sale in execution of a decree, (namely) lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundís, promissory notes, Government securities, bonds or other securities for money, debts, shares in the capital or joint-stock of any railway, banking or other public Company or Corporation, and, except as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, and whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Property liable to attachment and sale in execution of decree.

Provided that the following particulars shall not be liable to such attachment or sale (namely)—

(*a*) the necessary wearing apparel of the judgment-debtor, his wife and children:

(*b*) tools of artizans, implements of husbandry and such cattle as may in the opinion of the Court be necessary to enable the judgment-debtor to earn his livelihood as an agriculturist:

(*c*) the materials of houses and other buildings belonging to and occupied by agriculturists:

(*d*) books of account:

(*e*) mere rights to sue for damages:

(*f*) any right of personal service:

(*g*) stipends allowed to military and civil pensioners of Government, and political pensions:

(*h*) one moiety of the salary of a public officer or of the servant of a Railway Company:

(*i*) the pay and allowances of persons to whom the Native Articles of War apply:

(*j*) the wages of labourers and domestic servants:

(*k*) an expectancy of succession by survivorship or other merely contingent or possible right or interest:

(*l*) a right to future maintenance.

Explanation.—The particulars mentioned in clauses (*g*), (*h*), (*i*) and (*j*) are exempt from attachment or sale whether before or after they are actually payable:

Provided also that nothing in this section shall be deemed:

(*a*) to exempt the materials of houses and other buildings from attachment or sale in execution of decrees for rent, or

(*b*) to affect the statute for the time being in force for punishing mutiny and desertion and for the better payment of the Army and their quarters.

267. The Court may of its own motion or on the application of the decree-holder, summon any person whom it thinks necessary, and examine him in respect to any property liable to be seized in satisfaction of the decree, and may require the person summoned to produce any document in his possession or power relating to such property, and before issuing the summons of its own motion, shall declare the person on whose behalf the summons is so issued.

Power to summon and examine persons as to property liable to be seized.

268. In the case of (*a*) a debt not secured by a negotiable instrument, (*b*) a share in the capital of any public company or corporation, (*c*) other moveable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any Court, the attachment shall be made by a written order prohibiting,

Attachment of debt, share and other property not in possession of judgment-debtor.

(*a*) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court:

(*b*) in the case of the share, the person in whose name the share may be standing, from transferring the same or receiving any dividend thereon:

(*c*) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

A copy of such order shall be fixed up in some conspicuous part of the Court-house, and another copy of the same shall be sent in the case of the debt to the debtor, in the case of the share to the proper officer of the company or corporation, and in the case of the other moveable property (except as aforesaid) to the person in possession of the same.

A debtor prohibited under clause (*a*) of this section may pay the amount of his debt into court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

No attachment under this section shall remain in force for more than six months; at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and pay the balance, if any, to the judgment-debtor on his application.

269. If the property be moveable property in the possession of the judgment-debtor, other than the property mentioned in the first proviso to section 266, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof:

Attachment of moveable property in possession of defendant.

Provided that when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody will exceed its value, the proper officer may sell it at once.

The Local Government may from time to time make rules for the maintenance and custody, while under attachment, of live-stock and other moveable property, and the officer attaching property under this section shall, notwithstanding the provisions of the former part of this section act in accordance with such rules.

Power to make rules for maintenance of attached live-stock.

270. If the property be a negotiable instrument not in deposit in a Court, the attachment shall be made by actual seizure, and the instrument shall be brought into court and held subject to the further orders of the Court.

Attachment of negotiable instruments.

271. If the person executing any process under this Code directing or authorizing seizure of moveable property, has gained access to a house or other building, he may unfasten and open the door of any room in which he has reason to believe any such property to be:

Seizure of property in house.

Provided that if the room be in the actual occupancy of a woman, who according to the customs of the country does not appear in public, the person executing the process shall give notice to her that she is at liberty to withdraw; and after allowing a reasonable time for such woman to withdraw, and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

Seizure of property in zanánás.

272. If the property be deposited in, or be in the custody of, any Court or public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon may be held subject to the further orders of the Court from which the notice issues:

Attachment of property deposited in Court or with Government officer.

Provided that, if such property is deposited in, or is in the custody of, a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

Proviso.

273. If the property be a decree for money passed by the Court which passed the decree sought to be executed, the attachment shall be made by an order of the Court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

Attachment of decree for money.

If the property be a decree for money passed by any other Court, the attachment shall be made by a notice in writing to such Court under the hand of the Judge of the Court which passed the decree sought to be executed, requesting the former Court to stay the execution of its decree until such notice is cancelled by the Court from which it was sent. The Court receiving such notice shall stay execution accordingly, unless and until

(*a*) the Court which passed the decree sought to be executed cancels the notice, or

(*b*) the holder of the decree sought to be executed applies to the Court receiving such notice to execute its own decree.

On receiving such application, the Court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

In the case of all other decrees the attachment shall be made by a notice in writing, under the hand of the Judge of the Court which passed the decree sought to be executed to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way; and, when such decree has been passed by any other Court, also by sending to such Court a like notice in writing to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent. Every Court receiving such notice shall give effect to the same until it is so cancelled.

Attachment of other decrees.

The holder of any decree attached under this section shall be bound to give the Court executing the same such information and aid as may reasonably be required.

Decree-holders to give information.

274. If the property be immoveable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from receiving the same from him by purchase, gift or otherwise.

Attachment of immoveable property.

The order shall be proclaimed at some place on adjacent to such property by beat of drum or

other customary mode, and a copy of the order shall be fixed up in a conspicuous part of the property and of the Court-house.

When the property is land paying revenue to Government, a copy of the order shall also be fixed up in the office of the Collector of the District in which the land is situate.

Order for withdrawal of attachment after satisfaction of decree.

275. If the amount decreed with costs and all charges and expenses resulting from the attachment of any property be paid into Court, or if satisfaction of the decree be otherwise made through the Court, or if the decree is set aside or reversed, an order shall be issued, on the application of any person interested in the property, for the withdrawal of the attachment.

Private alienation of property after attachment to be void.

276. When an attachment has been made by actual seizure or by written order duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, mortgage or otherwise, and any payment of the debt or dividend or a delivery of the share to the judgment-debtor during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Court may direct coin or currency-notes attached to be paid to party entitled.

277. If the property attached is coin or currency-notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

Investigation of claims to and objections to attachment of attached property.

278. If any claim be preferred to, or any objection be made to the attachment of, any property attached in execution of a decree, on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was a party to the suit:

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

Postponement of sale.

If the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

Evidence to be adduced by claimant.

279. The claimant or objector must adduce evidence to show that at the date of the attachment he had some interest in, or was possessed of, the property attached.

Release of property from attachment.

280. If upon the said investigation the Court is satisfied that, for the reason stated in the claim or objection, such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall pass an order for releasing the property wholly or to such extent as it thinks fit, from attachment.

Disallowance of claim to release of property attached.

281. If the Court is satisfied that the property was, at the time it was attached, in possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

Continuance of attachment subject to claim of incumbrancer.

282. If the Court is satisfied that the property is subject to a mortgage or lien in favour of some person not in possession, and thinks fit to continue the attachment, it may do so, subject to such mortgage or lien.

Saving of suits to establish right to attached property.

283. The party against whom an order under section 280, 281 or 282 is passed may institute a suit to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order shall be conclusive.

Power to order property attached to be sold, and proceeds be paid to person entitled.

284. Any Court may order that any property which has been attached, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

Property attached in execution of decrees of several Courts.

285. Where property not in the custody of any Court has been attached in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

G.—Of Sale and Delivery of Property.

(a) General Rules.

Sales by whom conducted and how made.

286. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and, except as provided in section 296, shall be made by public auction in manner hereinafter mentioned.

Proclamation of sales by public auction.

287. When any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court. Such proclamation shall state the time and place of sale; and shall specify as fairly and accurately as possible—

(*a*) the property to be sold;

(*b*) the revenue assessed upon the estate or part of the estate, when the property to be sold is an interest in an estate or a part of an estate paying revenue to Government;

(*c*) any incumbrance to which the property is liable;

(*d*) the amount for the recovery of which the sale is ordered; and

(*e*) every other thing which the Court considers material for the purchaser to know in order to judge of the nature and value of the property.

For the purpose of ascertaining the matters so to be specified, the Court may summon any person whom it thinks necessary, and examine him in respect to any such matters, and require him to produce any document in his possession or power relating thereto.

Rules to be made by High Court.

The High Court shall, as soon as may be after this Code comes into force, make rules for the guidance of the Courts in exercise of their duties under this section. The High Court may from time to time alter any rules so made. All such rules shall be published in the local official Gazette and shall thereupon have the force of law. As regards his own Court and the Court of Small Causes at Rangoon the Recorder of Rangoon shall be deemed to be a 'High Court' within the meaning of this paragraph.

Nothing in this section shall apply to cases in which the execution of the decree has been transferred to the Collector.

Indemnity of Judges, &c.

288. No Judge or other public officer shall be answerable for any error, misstatement or omission in any proclamation under section 287 unless the same has been committed or made dishonestly.

Mode of making proclamation.

289. The proclamation shall be made, in manner prescribed by section 274, on the spot where the property is attached.

If the Court so direct, such proclamation shall also be published in the local official Gazette and in some local newspaper, and the costs of such publication shall be deemed to be costs of the sale.

Time of sale.

290. Except in the case of property mentioned in the proviso to section 269, no sale under this chapter shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification has been affixed in the court-house of the Judge ordering the sale.

Power to adjourn sale.

291. The officer conducting any sale under this chapter may in his discretion adjourn the sale, recording his reasons for such adjournment: Provided that when the sale is made in or within the precincts of the Court-house no such adjournment shall be made without the leave of the Court. Every such sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to such officer, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court that ordered the sale.

Stoppage of sale on tender of debt and costs, or on proof of payment.

Officers concerned in execution not to bid for or buy property sold.

292. No officer having any duty to perform in connection with any sale under this chapter shall either directly or indirectly bid for, acquire, or attempt to acquire, any interest in any property sold at such sale.

Defaulting purchaser answerable for loss by re-sale.

293. The deficiency of price (if any) which may happen on a re-sale under this Code by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court by the officer holding the sale,

and shall, at the instance of either the judgment-creditor or the judgment-debtor, be recoverable from the defaulter under the rules contained in this chapter for the execution of a decree for money.

Decree-holder not to bid for or buy property without permission.

294. No holder of a decree in execution of which property is sold, shall, without the express permission of the Court, bid for or purchase the property.

If decree-holder purchase, amount of decree may be taken as payment.

When a decree-holder purchases with such permission, the purchase-money and the amount due on the decree may, if he so desires, be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.

Proceeds of execution-sale to be divided rateably among decree-holders.

295. Whenever assets are realized by sale or otherwise in execution of a decree, and more persons than one have, prior to the realization, applied to the Court by which such assets are held for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be divided rateably among all such persons:

Proviso where property is sold subject to mortgage.

Provided that, when any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale:

Provided also that when any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the assent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge giving to the mortgagee or incumbrancer the same right against the proceeds of the sale as he had against the property sold.

If all or any of such assets be paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

Nothing in this section affects any right of the Government.

(b).—Rules as to Moveable Property.

Rules as to negotiable securities and shares in public Companies.

296. If the property to be sold be a negotiable instrument or a share in any public Company or Corporation, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or share through a broker at the market-rate of the day.

Payment for moveable property sold.

297. In the case of other moveable property, the price of each lot shall be paid for at the time of sale, or as soon after as the officer holding the sale directs, and in default of payment, the property shall forthwith be again put up and sold.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Irregularity not to vitiate sale of moveable property, but any person injured may sue.

298. No irregularity in publishing or conducting the sale of moveable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation, or (if such other person be the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Delivery of moveable property belonging to defendant actually seized.

299. When the property sold is a negotiable instrument or other moveable property of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which judgment-debtor is entitled subject to lien.

300. When the property sold is any moveable property to which the judgment-debtor is entitled subject to the possession of some other person, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

Delivery of debts and of shares in public Companies.

301. When the property sold is a debt not secured by a negotiable instrument, or is a share in any public Company, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the Manager, Secretary or other proper officer of the Company from permitting any such transfer or making any such payment to any person except the purchaser.

Transfer of negotiable instruments and shares.

302. If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any public Company is standing, is required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share, or may execute such other document as may be necessary.

The endorsement or execution shall be in the following form or to the like effect:—"*A. B.* by *C. D.*, Judge of the Court of (*or as the case may be*); in a suit by *E. F.* against *A. B.*"

Until the transfer of such instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made or document executed or receipt signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself.

Vesting order in case of other property.

303. In the case of any moveable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

(c.)—Rules as to Immoveable Property.

Sales of land by Court not inferior to a District Court.

304. Sales of immoveable property in execution of a decree may be ordered by any Court other than a Court of Small Causes.

Postponement of sale of land to enable defendant to raise amount of decree.

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may on his application postpone the sale of property comprised in the order for sale for such period as it thinks proper, to enable him to raise the amount.

Certificate to judgment-debtor.

In such case the Court shall grant a certificate to the judgment-debtor authorizing him, within a period to be mentioned therein, to make the proposed mortgage, lease or sale: provided that all moneys payable under such mortgage, lease or sale, shall be paid into Court and not to the judgment-debtor.

Where such certificate has been granted and so long as it remains in force, the provisions of section 248 shall not apply.

Deposit by purchaser of immoveable property.

306. On every sale of immoveable property under this chapter, the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per centum on the amount of his purchase-money to the officer conducting the sale, and, in default of such deposit, the property shall forthwith be put up again and sold.

Time for payment in full.

307. The full amount of purchase-money shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day, or if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.

Procedure in default of payment.

308. In default of payment within the period mentioned in the last preceding section, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

Notification on re-sale of immoveable property.

309. Every re-sale of immoveable property in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

Co-sharer of a share of undivided estate sold in execution to have preference in bidding.

310. When the property sold in execution of a decree is a share of undivided immoveable property, and two or more persons, of whom one is a co-sharer, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the co-sharer.

Sale of land not set aside on ground of irregularity unless in case of substantial injury.

311. The decree-holder or any person whose immoveable property has been sold under this chapter may apply to the Court to set aside the sale on the ground of a material irregularity in publishing or conducting it;

but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

Effect of objection being disallowed and of its being allowed.

312. If no such application as is mentioned in the last preceding section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale as regards the parties to the suit and the purchaser.

If such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale.

No suit to set aside on the ground of such irregularity an order passed under this section shall be brought by the party against whom such order has been made.

Power to apply to set aside the sale.

313. The purchaser at any such sale may apply to the Court to set aside the sale, on the ground that the person whose property purported to be sold had no saleable interest therein, and the Court may make such order as it thinks fit: provided that no order to set aside a sale shall be made, unless the judgment-debtor and the decree-holder have had opportunity of being heard against such order.

Confirmation of sale.

314. No sale of immoveable property shall become absolute until it has been confirmed by the Court.

If sale set aside, price to be returned to purchaser.

315. When a sale of immoveable property is set aside under section 312 or 313,

or when it is found that the judgment-debtor had no saleable interest in the property which purported to be sold and the purchaser is for that reason deprived of it,

the purchaser shall be entitled to receive back his purchase-money (with or without interest as the Court may direct) from any person to whom the purchase-money has been paid.

The repayment of the said purchase-money and of the interest (if any) allowed by the Court may be enforced against such person under the rules provided by this Code for the execution of a decree for money.

Certificate to purchaser of immoveable property.

Certificate to state name of actual purchaser.

316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the name of the person who, at the time of sale, is declared to be the purchaser and the date of such sale.

Benámi purchaser not recognized.

317. No suit shall be maintained against the certified purchaser on the ground that the purchase was made on behalf of any other person, or on behalf of some one through whom such other person claims.

Nothing in this section shall bar a suit to obtain a declaration that the name of the certified purchaser was inserted in the certificate fraudulently or without the consent of the real purchaser.

Delivery of immoveable property in occupancy of judgment-debtor.

318. When the property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall, on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

Delivery of immoveable property in the occupancy of tenant.

319. When the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under section 316, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or in such other mode as may be customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

Power to prescribe rules for transferring to Collector execution of decrees sale of land.

320. The Local Government may, with the sanction of the Governor General in Council, declare by notification in the official Gazette that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold,

or the execution of any particular kind of such decrees,

or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property,

shall be transferred to the Collector;

and rescind or modify any such declaration.

Power to prescribe rules as to transmission, execution and retransmission of decrees.

The Local Government may also from time to time prescribe rules for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for retransmitting the decree from the Collector to the Court.

Power of Collector as to sale of land in execution of decree.

321. Whenever the execution of a decree has been so transferred, the Collector may—

(*a*) sell the property comprised in the decree by public auction and either in one or more lots as he thinks fit:

(*b*) fix a reasonable reserved price for each lot:

(*c*) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment:

(*d*) buy in the property offered for sale and re-sell the same.

Powers of Collector as to execution of certain money-decrees so transferred.

322. Whenever the execution of a decree not being a decree directing the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector may either proceed as the Court would proceed under section 305, or if he has reason to believe that the judgment-debts of the judgment-debtor can be discharged without a sale of the whole of such property, the Collector may (notwithstanding any order under section 307, but subject to such rules as may from time to time be made in this behalf by the Chief Controlling Revenue Authority) raise the amount necessary to discharge such debts with interest thereon according to the decree, or, if the decree makes no provision as to interest, then with interest (if any) at such rate as he thinks fit,

(*a*) by letting in perpetuity, or for a term, on payment of a premium equivalent to such amount, the whole or any part of the judgment-debtor's immoveable property: or

(*b*) by mortgaging the whole or any part of such property: or

(*c*) by selling part of such property: or

(*d*) by letting on farm or managing by himself or another the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale; or

(*e*) partly by one of such modes and partly by another or others of them.

For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

Procedure of Collector.

323. In the case of a decree for money, if the Collector proposes to proceed under section 322, he shall publish a notice in the language of the district, calling upon all persons holding decrees against the judgment-debtor to notify the same in writing to the Collector within sixty days from the date of such publication.

Such notice shall be published by being posted in the court-house of the Court which made the order under section 304, and at such other places (if any) as the Collector thinks fit.

So long as any letting or management under section 322 continues, the judgment-debtor and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property so let or managed, or any part thereof.

Sale by Collector.

324. If on the expiration of the letting or management, the amount necessary to discharge such debts in full with the interest (if any) payable thereon has not been raised, the Collector shall notify the fact in writing to the judgment-debtor or his representative, stating at the same time that, if the balance necessary to discharge such debts and interest is not paid to the Collector within six weeks from the date of such notice, the Collector will proceed to sell the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property accordingly.

Sale, &c., to be reported to Court by Collector.

325. Whenever the Collector sells any property pursuant to the said order of sale or exercises any of the powers conferred upon him by section 321 or 322, he shall inform the Court which made such order of the fact of such sale or exercise, and shall render accounts to such Court of his receipts and payments in respect of the said property, and shall hold the balance at the disposal of such Court.

Application of balance.

Such balance (after deducting therefrom any debts due or liabilities incurred to Government by the judgment-debtor) shall be applied rateably in discharging the claims of all the decree-holders who have complied with the said notice; and no other person making any claim against the property so let or managed, or against such proceeds, shall be entitled to be paid thereout.

When Court may authorize Collector to stay public sale of land.

326. When, in any local area in which no declaration under section 320 is in force, the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation or management of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. The provisions of sections 322 to 325 (both inclusive) shall in such case apply to the Collector.

Local rules as to sales of land in execution of decrees for money.

327. The Local Government may from time to time, with the sanction of the Governor General in Council, make special rules for any local area imposing conditions in respect of sale of any class of interests in land in execution of decrees for money, where such interests are so uncertain or undetermined as in the opinion of the Local Government to make it impossible to fix their value:

and if, when this Code comes into operation in any local area, any special rules as to sale of land in execution of decrees are in force therein, the Local Government may continue such rules in force, or may from time to time, with the sanction of the Governor General in Council, modify the same.

All rules so made or continued, and all such modifications of the same, shall be published in the local official Gazette, and shall thereupon have the force of law.

H.—Of Resistance to Execution.

Procedure in case of obstruction to execution of decree.

328. If in the execution of a decree for the possession of property, the officer charged with the execution of the warrant is resisted or obstructed by any person, the decree-holder may complain to the Court at any time within one month from the time of such resistance or obstruction.

The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Procedure in case of obstruction by judgment-debtor or at his instigation.

329. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, the Court shall inquire into the matter of the complaint, and pass such order as it thinks fit.

Procedure when obstruction continues.

330. If the Court is satisfied that the resistance or obstruction was without any just cause, and that the complainant is still resisted or obstructed in obtaining possession of the property by the judgment-debtor or some other person at his instigation, the Court may, at the instance of the decree-holder and without prejudice to any penalty to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for such resistance or obstruction, commit the judgment-debtor or such other person to jail for a term which may extend to thirty days, and direct that the decree-holder be put into possession of the property.

Procedure in case of obstruction by claimant in good faith, other than judgment-debtor.

331. If the resistance or obstruction has been occasioned by any person other than the judgment-debtor claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant;

and the Court shall, without prejudice to any proceedings to which the claimant may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of the Specific Relief Act, 1877, section 9,

and shall pass such order as it thinks fit for executing or staying execution of the decree.

Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.

332. If any person other than the defendant is dispossessed of any property in execution of a decree, and such person disputes the right of the decree-holder to dispossess him of such property under the decree, on the ground that the property was *bonâ fide* in his possession on his own account or on account of some person other than the judgment-debtor, and that it was not comprised in the decree, or that, if it was comprised in the decree, he was not a party to the suit in which the decree was passed, he may apply to the Court.

If, after examining the applicant, it appears to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like power as if a suit for the property had been instituted by the applicant against the decree-holder under the provisions of the Specific Relief Act, 1877, section 9,

and shall pass such order as it thinks fit for executing or staying execution of the decree.

In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

Nothing in this section or section 330 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made.

Orders passed under sections 331 and 332 to have force of decrees, and to be subject to appeal.

333. The order passed under either of section 331 and 332 shall be in the nature of, and shall have the same force as, a decree in a suit, and shall be subject to the same conditions as to appeal or otherwise.

Resisting or obstructing purchasers in obtaining possession of immoveable property.

334. If the purchaser of any immoveable property sold in execution of a decree be resisted or obstructed by the judgment-debtor or any one on his behalf in obtaining possession of the property, the provisions of this chapter relating to resistance or obstruction to a decree-holder in obtaining possession of the property adjudged to him, shall be applicable.

Obstruction by claimant other than defendant.

335. If it appear that the resistance or obstruction was occasioned by any person other than the judgment-debtor, not in possession of the property sold, but claiming a right thereto as proprietor, mortgagee, lessee or under any other title, the Court, on the complaint of the purchaser, shall enquire into the matter of the resistance or obstruction, and pass such order thereon as it thinks fit.

The party against whom such order is passed may institute a suit to establish the right which he claims to the present possession of the property, but subject to the result of such suit, if any, the order shall be conclusive.

I.—Of Arrest and Imprisonment.

Place of judgment-debtor's imprisonment.

336. A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall as soon as practicable be brought before the Court, and his imprisonment may be in the civil jail of the district in which the Court ordering the imprisonment is situate, or, when such jail does not afford suitable accommodation, in any other place which the Local Government may appoint for the confinement of persons ordered to be imprisoned by the Courts of such district:

Arrest in houses.

Provided that no house shall be entered after sunset and before sunrise for the purpose of making an arrest under this section:

Proviso.

Provided also that when the decree in execution of which a judgment-debtor is arrested is a decree for money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

The Local Government may, by notification published in the official Gazette, direct that whenever a judgment-debtor is arrested in execution of a decree for money and brought before the Court under this section, the Court shall inform him that he may apply under chapter XX to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application and if he places all his property in possession of a receiver appointed by the Court.

If after such publication the judgment-debtor express his intention so to apply, and if he furnish sufficient security that he will appear when called upon, and that he will within one month apply under section 344 to be declared an insolvent, the Court shall release him from arrest:

But if he fails so to apply, the Court may either direct the security to be realised or commit him to jail in execution of the decree.

Warrant for arrest to direct judgment-debtor to be brought up.

337. Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid.

Scales of subsistence-allowances.

338. The Local Government may from time to time prescribe scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

Judgment-debtor's subsistence-money.

339. No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into court such sum as, having regard to the scales so fixed, the Judge thinks sufficient for the subsistence of the judgment-debtor from his arrest until he can be brought before the Court.

When a judgment-debtor is committed to jail in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the said scales, or where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

The monthly allowance fixed by the Court shall be supplied by the party on whose application the decree has been executed, to the proper officer of the Court by monthly payments in advance before the first day of each month.

The first payment shall be made for such portion of the current month as remains unexpired before the judgment-debtor is committed to jail.

Subsistence-money to be added to amount of decree.

340. Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in jail shall be deemed to be costs on the suit:

Provided that the judgment-debtor shall not be detained in jail or arrested on account of any sum so disbursed.

Release of judgment-debtor.

341. The judgment-debtor shall be discharged from jail,

(*a*) on the decree being fully satisfied, or

(*b*) at the request of the person on whose application he has been imprisoned, or

(*c*) on such person omitting to pay the allowance as hereinbefore directed, or

(*d*) if the judgment-debtor be declared an insolvent, as hereinafter provided, or

(*e*) when the term of his imprisonment as limited by section 342 is fulfilled:

Provided that in the first, second, third and fifth cases mentioned in this section, the judgment-debtor shall not be discharged without the order of the Court.

A judgment-debtor discharged under this section is not thereby discharged from his debt, but he cannot be re-arrested under the decree in execution of which he was imprisoned.

Imprisonment not to exceed six months.

When not to exceed six weeks.

342. No person shall be imprisoned in execution of a decree for a longer period than six months;

or for a longer period than six weeks if the decree be for the payment of a sum of money not exceeding fifty rupees.

Endorsement on warrant.

343. The officer entrusted with the execution of the warrant shall endorse thereupon the day on, and the manner in, which it was executed; and if the latest day specified in the warrant for the return thereof has been exceeded, the reason of the delay; or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the Court.

If the endorsement is to the effect that such officer is unable to execute the warrant, the Court shall examine him on oath touching his alleged inability, and may, if it think fit, summon and examine witnesses as to such inability and shall record the result.

CHAPTER XX.

OF INSOLVENT JUDGMENT-DEBTORS.

Power to apply to be declared an insolvent.

344. Any person arrested or imprisoned in execution of a decree for money may apply in writing to be declared an insolvent.

Such application shall be made to the District Court which ordered his arrest or imprisonment, or when the District Court did not make such order, then to the District Court to which the Court that made the order is subordinate.

Contents of application.

345. The application shall set forth—

(*a*) the fact of such person's arrest or imprisonment, the Court by whose order he was arrested or imprisoned, and the place in which he is in custody;

(*b*) the amount, kind and particulars of his property, and the value of any such property not consisting of money;

(*c*) the place or places in which such property is to be found;

(*d*) his willingness to put it at the disposal of the Court;

(*e*) the amount and particulars of all pecuniary claims against him; and

(*f*) the names and residences of his creditors, so far as they are known to or can be ascertained by him.

Subscription and verification of application.

346. The application shall be subscribed and verified by the applicant in manner hereinbefore prescribed for subscribing and verifying plaints.

Service on decree-holder of copy of application and notice.

347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in Court and served at the applicant's expense on the holder of the decree in execution of which he was arrested or imprisoned, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application.

The Court may, if it thinks fit, publish at the applicant's expense the application in such official Gazettes and public newspapers as it thinks fit.

Power to serve other creditors.

348. The Court may also, if it thinks fit, cause a like copy and notice to be served on any other person alleging himself to be a creditor of the applicant and applying for leave to be heard on the application.

Powers of Court as to applicant under arrest.

349. Where the applicant is under arrest, the Court may, pending the hearing under section 350, order him to be immediately committed to jail; or leave him in the custody of the officer to whom the service of the warrant was entrusted.

Procedure at hearing.

350. On the day so fixed, or on any subsequent day to which the Court may adjourn the hearing, the Court shall examine the applicant, in the presence of the persons on whom such notice has been served or their pleaders, as to his then circumstances and as to his future means of payment, and shall hear the said decree-holder, the other creditors mentioned in the application and the other persons (if any) alleging themselves to be creditors, in opposition to the applicant's discharge; and may, if it thinks fit, grant time to the said decree-holder and other creditors or persons to adduce evidence showing that the applicant is not entitled to be declared an insolvent.

Declaration of insolvency and appointment of receiver.

351. If the Court is satisfied—

(*a*) that the statements in the application are substantially true;

(*b*) that the applicant has not, with intent to defraud his creditors, concealed, transferred or removed any part of his property since the institution of the suit in which was passed the decree in execution of which he was arrested or imprisoned or at any subsequent time;

(*c*) that he has not, knowing himself to be unable to pay his debts in full, recklessly contracted debts or given an unfair preference to any of his creditors by any payment or disposition of his property;

(*d*) that he has not committed any other act of bad faith regarding the matter of the application,

the Court may declare him to be an insolvent, and may also, if it think fit, make an order appointing a receiver of his property, or if it does not appoint such receiver, may discharge the insolvent.

Creditors to prove their debts.

Schedule to be framed.

352. The creditors mentioned in the application and the other persons (if any) alleging themselves to be creditors of the insolvent, shall then produce evidence of the amount and particulars of their respective pecuniary claims against him; and the Court shall by order determine the persons who have proved themselves to be the insolvent's creditors and their respective debts; and shall frame a schedule of such persons and debts; and the declaration under section 351 shall be deemed to be a decree in favour of each of the said creditors for their said respective debts.

A copy of every such schedule shall be stuck up in the court-house.

Nothing in this section shall be deemed to entitle a partner in an insolvent firm or, when he has died before the insolvency, his legal representative, to prove in competition with the creditors of the firm.

Applications by creditors.

353. Any creditor of the insolvent who is not mentioned in such schedule may, within three months from its publication, apply to the Court for permission to produce evidence of the amount and particulars of his pecuniary claims against the insolvent, and in case the applicant proves himself to be a creditor of the insolvent, for an order directing his name to be inserted in the schedule as a creditor for the debt so proved.

Any creditor mentioned in the schedule may within three months from the publication of the schedule apply to the Court for an order altering the schedule so far as regards the amount, nature, or particulars of his own debt, or to strike out the name of another creditor, or to alter the schedule so far as regards the amount, nature, or particulars of the debt of another creditor.

In the case of any application under this section, the Court, after causing such notices as it thinks fit to be served, at the applicant's expense, on the insolvent and the other creditors and hearing their objections, if any, may comply with or reject the application.

Effect of order appointing Receiver.

354. Every order under section 351 shall be published in the local official Gazette and shall operate to vest in the Receiver all the insolvent's property (except the particulars specified in the first proviso to section 266), whether set forth in his application or not.

Receiver to give security and collect assets.

355. The Receiver so appointed shall give such security as the Court may direct and shall possess himself of all such property, except as aforesaid;

Discharge of insolvent.

and on his certifying that the insolvent has placed him in possession thereof, or has done everything in his power for that purpose, the Court may discharge the insolvent from arrest or imprisonment, as the case may be, upon such conditions (if any) as the Court thinks fit.

Duty of Receiver.

356. The Receiver shall proceed under the direction of the Court—

(*a*) to convert the property into money:

(*b*) to pay thereout debts, fines and penalties (if any) due by the insolvent to Government:

(*c*) to pay the said decree-holder's costs:

(*d*) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts, and without any preference;

His right to remuneration.

Delivery of surplus.

and such Receiver may retain as a remuneration for the performance of his duties a commission, to be fixed by the Court, not exceeding the rate of five per centum upon the amount of the balance so distributed (the amount of the commission so retained being deemed a distribution), and shall deliver the surplus, if any, to the insolvent or his legal representative.

Effect of discharge.

357. An insolvent discharged under section 355 shall not be arrested or imprisoned on account of any of the scheduled debts. But (subject to the provisions of section 358) his

property, whether previously or subsequently acquired (except the particulars specified in the first proviso to section 266 and except the property vested in the Receiver), shall, by order of the Court, be liable to attachment and sale until the decrees against him held by the scheduled creditors are fully satisfied or become incapable of being executed.

When Court may declare insolvent absolved from further liability.

358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts.

Procedure in case of dishonest applicant.

359. Whenever, at the hearing under section 350, it is proved that the applicant has

(*a*) been guilty, in his application, of any concealment or of wilfully making any false statement as to the debts due by him, or respecting the property belonging to him, whether in possession or in expectancy, or held for him in trust;

(*b*) fraudulently concealed, transferred or removed any property; or

(*c*) committed any other act of bad faith regarding the matter of the application,

the Court shall, at the instance of any of his creditors, sentence him to imprisonment for a term which may extend to one year from the date of committal.

Or the Court may, if it think fit, send him to the Magistrate to be dealt with according to law.

Investment of other Courts with powers of District Courts.

Transfer of cases.

360. The Local Government may, by notification in the official Gazette, invest any Court other than a District Court with the powers conferred on District Courts by sections 344 to 359 (both inclusive), and the District Judge may transfer to any Court situate in his district and so invested any case instituted under section 344.

Any Court so invested may entertain any application under section 344 by any person arrested in execution of a decree of such Court.

PART II.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

No abatement by party's death, if cause of action survive.

361. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survives.

Illustrations.

(*a*) A covenants with *B* and *C* to pay an annuity to B during C's life. B and C sue A to compel payment. B dies before the decree: the cause of action survives to C, and the suit does not abate.

(*b*) In the same case, all the parties die before decree. The cause of action survives to the representative of the survivor of B and C, and he may continue the suit against A's representative.

(*c*) A sues B for libel. A dies. The cause of action does not survive and the suit abates.

(*d*) A, a member of a Hindú joint family under the Mitákshará law, institutes a suit for partition of the family property. A dies leaving B, a minor son, his heir. The cause of action survives to B, and the suit does not abate.

Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.

362. If there be more plaintiffs or defendants than one, and any of them dies, and if the cause of action survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.

363. If there be more plaintiffs than one, and any of them dies, and if the cause of action does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of such legal representative, enter his name on the record in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative.

Proceeding where no application made by representative of deceased plaintiff.

364. If no application be made to the Court by any person claiming to be the legal representative of a deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs;

and the legal representative (if any) of the deceased plaintiff shall be made a party and shall be interested in and bound by the decree passed in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole, or sole surviving, plaintiff.

365. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, where the cause of action survives, on the application of the legal representative of the deceased, enter his name in the place of such plaintiff on the record, and the suit shall thereupon proceed.

Abatement where no application by representative of deceased plaintiff.

366. If no such application be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the Court may pass an order that the suit shall abate, and award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff;

or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs or otherwise as it thinks fit, pass such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

Explanation.—A certificate of heirship, or a certificate to collect debts, does not of itself constitute the person holding it the legal representative of the deceased. But when the person holding any such certificate obtains thereby property belonging to the deceased, he may be treated as a legal representative liable in respect of such property.

Procedure in case of dispute as to representative of deceased plaintiff.

367. If any dispute arise as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.

368. If there be more defendants than one, and any of them die before decree and the cause of action does not survive against the surviving defendant or defendants alone,

and also in case of the death of a sole defendant, or sole surviving defendant, where the right to sue survives,

the plaintiff may make an application to the Court, specifying the name, description and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead.

The Court shall thereupon enter the name of such representative on the record in the place of such defendant,

and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit;

and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit:

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

Suit not abated by marriage of female party.

369. The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and where the decree is against a female defendant, it may thereupon be executed against her alone.

If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

When plaintiff's bankruptcy or insolvency bars suit.

370. The bankruptcy or insolvency of a plaintiff in any suit which his assignee or the receiver appointed under section 351 might maintain for the benefit of his creditors shall not bar the suit, unless such assignee or receiver declines to continue the suit and to give security for the costs thereof within such time as the Court may order.

Procedure when assignee fails to continue suit or give security.

If the assignee or receiver neglect or refuse to continue the suit and to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

Effect of abatement on parties' rights.

371. When a suit abates or is dismissed under this chapter, no fresh suit shall be brought on the same cause of action.

Application to set aside abatement or dismissal.

But the person claiming to be the legal representative of the deceased bankrupt or insolvent plaintiff, may apply for an order to set aside the order for abatement or dismissal; and if it be proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

Procedure in case of assignment pending the suit.

372. In other cases of assignment, creation or devolution of any interest pending the suit, the suit may, with the leave of the Court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come, either in addition to or in substitution for the person from whom it has passed, as the case may require.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

Power to allow plaintiff to withdraw with liberty to bring fresh suit.

373. If, at any time after the institution of the suit, the Court is satisfied on the application of the plaintiff (*a*) that the suit must fail by reason of some formal defect, or (*b*) that there are sufficient grounds for permitting him to withdraw from the suit or to abandon part of his claim with liberty to bring a fresh suit for the subject-matter of the suit or for the part so abandoned, the Court may grant such permission on such terms as to costs or otherwise as it thinks fit.

If the plaintiff withdraw from the suit, or abandon part of his claim, without such permission, he shall be liable for such costs as the Court may award, and shall be precluded from bringing a fresh suit for the same matter.

Nothing in this section shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

Limitation-law not affected by first suit.

374. In any fresh suit instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been brought.

Compromise of suits.

375. If a suit be adjusted by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the Court shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

Deposit by defendant of amount in satisfaction of claim.

376. The defendant in any suit to recover a debt or damages, may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

Notice of deposit.

377. Notice of the deposit shall be given by the defendant to the plaintiff, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the plaintiff on his application.

Interest on sum deposited not allowed to plaintiff after receipt of notice.

378. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

Procedure where plaintiff accepts deposit as satisfaction in part.

379. If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the Court decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff must pay the costs of the suit incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

Procedure where he accepts it as satisfaction in full.

If the plaintiff accept such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall pass judgment accordingly, and in directing by whom the costs of each party are to be paid, the Court shall consider which of the parties is most to blame for the litigation.

Illustrations.

(*a*) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(*b*) B sues A under the circumstances mentioned in illustration (*a*). On the plaint being filed, A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shown that the litigation was necessary.

(*c*) A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

When security for costs may be required from plaintiff at any stage of suit.

380. If, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of British India, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immoveable property within British India independent of the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by any defendant.

Procedure where requisition is not complied with.

381. In the event of such security not being furnished within the time so fixed, the Court shall dismiss the suit unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of section 373.

Residence out of British India.

382. Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of British India, within the meaning of section 380.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

Cases in which Court may issue commission to examine witness.

383. Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of persons resident within the local limits of its jurisdiction, who are exempted under this Code from attending the Court, or who are from sickness or infirmity unable to attend it.

Order for commission may be made either on application of parties or by Court of its own accord.

384. Such order may be made by the Court either of its own motion, or on the application, supported by affidavit, of any party to the suit or of the witness to be examined.

When witness resides within Court's jurisdiction.

385. The commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same, may be issued to any person whom the Court thinks fit to execute the same.

When witness resides beyond Court's jurisdiction, but in British India.

386. Any Court may in any suit issue a commission for the examination of—

(*a*) any person resident beyond the local limits of its jurisdiction;

(*b*) persons who are about to leave such limits before the date on which they are required to be examined in Court; and

(*c*) civil and military officers of Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

Such commission shall ordinarily be issued to any Court not being a High Court, within the local limits of whose jurisdiction such person resides, and which can most conveniently execute the same:

When witness is within local limits of ordinary original civil jurisdiction of a High Court.

Provided that if he resides beyond the local limits of the jurisdiction of the Court issuing the commission and within the towns of Calcutta, Madras, Bombay, or Rangoon, the commission shall be issued to the Court of Small Causes within whose jurisdiction he resides:

Provided also that, under special circumstances, the commission may be directed to any person whom the Court issuing the commission thinks fit to appoint.

The Court on issuing any commission under this section shall direct whether the commission shall be returned to itself or to any subordinate Court.

When witness is not within British India.

387. When any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied that his evidence is necessary, the Court may issue such commission.

Court to examine witness pursuant to commission.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

Commission when executed to be returned to Court issuing it with depositions of witnesses.

389. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit.

When depositions may be read in evidence.

390. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless

(*a*) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or

(*b*) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in the last preceding clause, and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Provisions as to execution and return of commissions to apply to commissions issued by foreign Courts.

391. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by

(*a*) Courts situate beyond the limits of British India and established by the authority of Her Majesty or of the Governor General in Council, or

(*b*) Courts situate in any part of the British Empire other than British India, or

(*c*) Courts of any foreign country for the time being in alliance with Her Majesty.

B.—Commissions for Local Investigations.

Commission to make local investigations.

392. In any suit or proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual net profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report thereon to the Court:

Provided that, when the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

Procedure of Commissioner.

393. The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, subscribed with his name, to the Court.

Report and depositions to be evidence in suit.

The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court, or any of the parties to the suit may, with the permission of the Court, examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

Commissioner may be examined in person.

C.—Commissions to examine Accounts.

Commission to examine or adjust accounts.

394. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

Court to give Commissioner necessary instructions.

395. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

Proceedings of Commissioner receivable in evidence.

The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

Power to make further inquiry.

D.—Commission to make Partition.

Commission to make partition of non-revenue-paying immoveable property.

396. In any suit in which the partition of immoveable property not paying revenue to Government appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

The Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission issues, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party, and dis-

tinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court: and the Court, after hearing any objections which the parties may make to the report or reports shall either quash the same and issue a new commission, or (where the Commissioners agree in their report) pass a decree in accordance therewith.

E.—General Provisions.

Expenses of commission to be paid into Court.

397. Before issuing any commission under this chapter, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be paid into Court by the party at whose instance or for whose benefit the commission is issued.

Commissioner may examine parties and witnesses and call for papers.

398. Any Commissioner appointed under this chapter may, unless otherwise directed by the order of appointment,

(*a*) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him:

(*b*) call for and examine documents and other things relevant to the subject of inquiry:

(*c*) at any reasonable time enter upon or into any land or building mentioned in the order.

Attendance, examination and punishment of witnesses before Commissioner.

399. The provisions of this Code relating to the summoning, attendance and examination of witnesses and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India.

Procedure *ex parte* where parties do not appear.

400. Whenever a commission is issued under this chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

If the parties do not so appear, the Commissioner may proceed *ex parte*.

PART III.
OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.
SUITS BY PAUPERS.

Suits may be brought *in forma pauperis*.

401. Subject to the following rules, any suit may be brought by a pauper.

Explanation.—A person is a 'pauper' when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing apparel and the subject-matter of the suit.

What suits excepted.

402. No suit shall be brought by a pauper to recover compensation for loss of caste, libel, slander, abusive language or assault.

Application to be in writing.

403. The application for permission to sue by a pauper shall be in writing, and shall contain the particulars required by section 50 in regard to plaints in suits: a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, shall be annexed thereto; and it shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

Contents of application.

Presentation of application.

404. Notwithstanding anything contained in section 36, the application shall be presented to the Court by the applicant in person unless he is exempted from appearing in Court under section 640 or 641, in which case the application may be presented by a duly authorized agent, who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Rejection of application.

405. If the application be not framed or presented in the manner prescribed by sections 403 and 404, the Court shall reject it.

Examination of applicant.

406. If the application be in proper form and duly presented, the Judge shall examine the petitioner, or his agent when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

If presented by agent, Court may order applicant to be examined by commission.

When the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken under the provisions of this Code.

Rejection of application.

407. If it appear to the Court upon such examination

(*a*) that the applicant is not a pauper, or

(*b*) that he has, within the two months next before the presentation of the application, disposed of any property fraudulently or with a view to obtain the benefit of this chapter, or

(*c*) that his allegations do not show a right to sue in such Court, or

(*d*) that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter,

the Court shall reject the application.

Notice of day for receiving evidence of applicant's pauperism.

408. If upon such examination the Court sees no reason to refuse the application on any of the grounds stated in section 407, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party and the Government Pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and

for hearing any evidence which may be adduced in disproof thereof.

Procedure at hearing.

409. On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may cross-examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in section 407.

The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

Procedure if application admitted.

410. If the application be granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under chapter V, except that the plaintiff shall not be liable to any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

Costs when pauper succeeds.

Recovery of court-fees.

411. If the plaintiff succeed in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code.

Procedure when pauper fails.

412. If the plaintiff fails in the suit, or if he is dispaupered, the Court shall order the plaintiff, or any person made under section 32 co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and, if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.

413. Refusal to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by Government in opposing his application for leave to sue as a pauper.

Dispaupering.

414. The Court may, on motion by the defendant, or by the Government Pleader, of which one week's notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

(*a*) if he is guilty of vexatious or improper conduct in the course of the suit;

(*b*) if it appears that his means are such that he ought not to continue to sue as a pauper, or

(*c*) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

Costs.

415. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism are costs in the suit.

CHAPTER XXVII.
SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

Suits by or against Secretary of State in Council.

416. Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council.

Persons authorized to act for Government.

417. Persons being *ex-officio* or otherwise authorized to act for Government in respect of any judicial proceeding, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of Government.

Plaints in suits by Secretary of State in Council.

418. In suits by the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "The Secretary of State for India in Council."

Agent of Government to receive process.

419. The Government Pleader in any Court shall be the agent of the Government for the purpose of receiving processes against the said Secretary of State in Council issuing out of such Court.

Appearance and answer by Secretary of State in Council.

420. The Court, in fixing the day for the said Secretary of State in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of intructions to the Government Pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

Attendance of person able to answer questions relating to suit against Government.

421. The Court may also in any case in which the Government Pleader is not accompanied by any person on the part of the said Secretary of State in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

Service on public officers.

422. Where the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being

served on him, if it appear to the Court that the summons may be most conveniently so served.

Extension of time to enable officer to make reference to Government.

423. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel;

and the Court upon such application may extend the time for so long as appears to be requisite.

Notice previous to suing Secretary of State in Council or public officer.

424. No suit shall be instituted against the said Secretary of State in Council or against a public officer until the expiration of two months next after notice in writing has been in the case of the Secretary of State in Council delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

Arrests in such suits.

425. No warrant of arrest shall be issued in such suit without the consent in writing of the District Judge.

Application where Government undertakes defence.

426. If the Government undertake the defence of a suit against a public officer, the Government Pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register.

Procedure where no such application made.

Defendant not liable to arrest before judgment.

427. If such application is not made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

Exemption of public officers from personal appearance.

428. In a suit against a public officer the Court shall exempt the defendant from appearing in person when he satisfies the Court that he cannot absent himself from his duty without detriment to the public service.

Procedure where decree is against Government or a public officer.

429. When the decree is against the said Secretary of State in Council or against a public officer, a time shall be specified in the decree within which it shall be satisfied; and if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Execution shall not issue on any such decree unless it remains unsatisfied for the period of three months computed from the date of the report.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

When aliens may sue.

430. Alien enemies residing in British India with the permission of the Governor General in Council and alien friends may sue in the Courts of British India as if they were subjects of Her Majesty.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

When a foreign State may sue.

431. A foreign State may sue in the Courts of British India, provided that—

(*a*) it has been recognized by Her Majesty or the Governor General in Council, and

(*b*) the object of the suit is to enforce the private rights of the head or of the subjects of the foreign State.

The Court shall take judicial notice of the fact that a foreign State has not been recognized by Her Majesty or by the Governor General in Council.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.

432. Persons specially appointed by order of Government at the request of any Sovereign Prince or ruling Chief, whether in subordinate alliance with the British Government or othrewise, and whether residing within or without British India, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

Suits against Sovereign Princes, &c.

433. Any such Prince or Chief, and any ambassador or envoy of a foreign State may, with the consent of Government certified by the signature of one of its Secretaries (but not without such consent) be sued in any competent Court not subordinate to a District Court;

Such consent shall not be given unless—

(*a*) the Prince, Chief, ambassador or envoy has instituted a suit in such Court against the person desiring to sue him, or

(*b*) the Prince, Chief, ambassador or envoy by himself or another trades within the local limits of the jurisdiction of such Court; or

(*c*) the subject-matter of the suit is immoveable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

Sovereign Princes, &c., exempt from arrest.

When their property may be attached.

No such Prince, Chief, ambassador or envoy shall be arrested under this Code; and no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy unless with consent of Government certified as aforesaid.

Execution in British India of decrees of Courts of Native States.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*a*) declare that the decrees of any Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor General in Council, may be executed in British India as if they had been made by the Courts of British India, and

(*b*) cancel any such declaration.

So long as such declaration remains in force, the said decrees may be executed accordingly.

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

Subscription and verification of plaint.

435. In suits by a Corporation, or by a Company authorized to sue and be sued in the name of an officer or of a trustee, the plaint may be subscribed and verified on behalf of the Corporation or Company by any director, secretary, or other principal officer of the Corporation or Company, who is able to depose to the facts of the case.

Service on Corporation or Company.

436. When the suit is against a Corporation, or against a Company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served

(*a*) by leaving it at the registered office (if any) of the Corporation or Company, or

(*b*) by sending it by post in a letter addressed to such officer or trustee at the office (or if there be more offices than one, at the principal office in British India) of the Corporation or Company, or

(*c*) by giving it to any director, secretary or other principal officer of the Corporation or Company,

and the Court may require the personal appearance of any director, secretary or other principal officer of the Corporation or Company who may be able to answer material questions relating to the suit.

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

Representation of beneficiaries in suits concerning property vested in trustees, &c.

437. In all suits concerning property vested in a trustee, executor or administrator, the trustee, executor or administrator shall represent the persons beneficially interested in such property; and it shall not ordinarily be necessary to make such persons parties to the suit. But the Court may, if it think fit, order them or any of them to be made such parties.

Joinder of executors and administrators.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them:

Provided that executors who have not proved their testator's will, and executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

Husband of married executrix not to join.

439. Unless the Court directs otherwise, the husband of a married administratrix or executrix shall not be a party to a suit by or against her.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

Minor must sue by next friend.

Costs.

440. Every suit by a minor shall be instituted in his name by an adult person, who in such suit shall be called the next friend of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

Applications to be made by next friend or guardian *ad litem*.

Costs.

441. Every application to the Court on behalf of a minor (other than an application under section 451) shall be made by his next friend, or his guardian for the suit.

Plaint filed without next friend to be taken off the file.

Costs.

442. If a plaint be filed by or on behalf of a minor, without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other person by whom it was presented. Notice of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

Guardian *ad litem* to be appointed by the Court.

443. Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

Order obtained without next friend or guardian may be discharged.

Costs.

444. Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, if the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

Who may be next friend.

445. Any person being of sound mind and full age may act as next friend of a minor, provided his interest is not adverse to that of such minor, and he is not a defendant in the suit.

446. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor, as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

Removal of next friend.

447. Unless otherwise ordered by the Court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

Retirement of next friend.

The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor.

Application for appointment of new next friend.

448. On the death or removal of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

Stay of proceedings on death or removal of next friend.

449. If the pleader of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

Application for appointment of new next friend.

450. A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, on coming of age, must elect whether he will proceed with the suit or application.

Course to be followed by minor plaintiff or applicant on coming of age.

451. If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

Where he elects to proceed.

The title of the suit or application shall in such case be corrected so as to read thenceforth thus:

"*A. B.* late a minor by *C. D.*, his next friend, but now of full age."

452. If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

Where he elects to abandon.

Costs.

453. Any application under section 451 or section 452 may be made *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

Application and proving under sections 451 and 452.

454. A minor co-plaintiff on coming of age, and desiring to repudiate the suit must apply to have his name struck out as co-plaintiff; and the Court, if it find that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

When minor co-plaintiff.

Notice of the application shall be served on the next friend, as well as on the defendant; and it must be proved by affidavit that the late minor has attained his full age. The costs of all parties of such application and of all or any proceedings theretofore had in the suit shall be paid by such persons as the Court directs.

Costs.

If the late minor be a necessary party to the suit, the Court may direct him to be made a defendant.

455. If any minor on attaining majority can prove to the satisfaction of the Court that a suit instituted in his name by a next friend was unreasonable or improper, he may, if a sole plaintiff, apply to have the suit dismissed.

When suit unreasonable or improper.

Notice of the application shall be served on all the parties concerned: and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit.

Costs.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name of the minor. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is a fit person to be so appointed.

Petition for appointment of guardian *ad litem*.

457. A co-defendant of sound mind and of full age may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a married woman, can be so appointed.

Who may be guardian *ad litem*.

458. If the guardian for the suit of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the Court may remove him, and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

Guardian neglecting his duty may be removed.

Costs.

459. If the guardian for the suit dies pending such suit or is removed by the Court, the Court shall appoint a new guardian in his place.

On death of guardian, *pendente lite*, new guardian to be appointed.

460. When the enforcement of a decree is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

When decree to be enforced against heir or representative.

461. No sum of money or other thing shall be received or taken by a next friend or guardian for the suit at any time on behalf of a minor, at any time before decree or order, unless he has first obtained the leave of the Court, and given security to its satisfaction that such money or other thing shall be duly accounted for, to, and held for the benefit of, such minor.

Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.

462. No next friend or guardian for the suit shall, without the leave of the Court, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which he acts as next friend or guardian.

Next friend or guardian *ad litem* not to compromise without leave of Court.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

Compromise without leave voidable.

463. The provisions contained in sections 440 to 462 (both inclusive) shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under Act No. XXXV of 1858, or under any other law for the time being in force.

Application of sections 440 to 462 to persons of unsound mind.

464. Nothing in sections 442 to 462 applies to any minor or person of unsound mind, for whose person or property a guardian or manager has been appointed by the Court of Wards or by the Civil Court under any local law.

Wards of Court.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

465. When any officer or soldier actually serving the Government in a military capacity is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

The authority shall be in writing and shall be signed by the officer or soldier in the presence of (*a*) his commanding officer or of the next subordinate officer, if the party be himself the commanding officer, or (*b*) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority which shall be filed in Court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation.—In this chapter the expression 'commanding officer' means the officer in actual command for the time being of any regiment, corps, detachment or depôt, to which the officer or soldier belongs.

466. Any person authorized by an officer or soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

Person so authorized may act personally or appoint pleaders.

467. Processes served upon any person authorized by an officer or soldier, as in section 465, or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader.

Service on person so authorized, or on his pleader, to be good service.

468. When an officer or soldier is a defendant, the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him.

Service on officers and soldiers.

The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

469. If, in the execution of a decree, a warrant of arrest is to be executed within the limits of a cantonment, garrison, military station or military bázár, the officer charged with the execution of such warrant shall deliver the same to the commanding officer.

Execution of warrant of arrest in cantonments, &c.

The commanding officer shall back the warrant with his signature, and the person named therein is within the limits of his command shall cause him to be arrested and delivered to the officer so charged.

CHAPTER XXXIII.

INTERPLEADER.

470. When two or more persons claim adversely to one another the same payment or property from another person, whose only interest therein is that of a mere stakeholder and who is ready to render it to the right owner, such stakeholder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property should be made or delivered, and of obtaining indemnity for himself:

When interpleader-suit may be instituted.

Provided that if any suit is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaint must, in addition to the other statements necessary for plaints, state—

Plaint in such suit.

(*a*) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder;

(*b*) the claims made by the defendants severally; and

(*c*) that there is no collusion between the plaintiff and any of the defendants.

Payment of thing claimed into court.

472. When the thing claimed is capable of being paid into court or placed in the custody of the Court, the plaintiff must so pay or place it before he can be entitled to any order in the suit.

Procedure at first hearing.

473. At the first hearing the Court may

(*a*) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit:

or, if it thinks that justice or convenience so require,

(*b*) retain all parties until the final disposal of the suit:

and, if it finds that the admissions of the parties or other evidence enable it,

(*c*) adjudicate the title to the thing claimed; or else it may

(*d*) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court.

When agents and tenants may institute interpleader-suits.

474. Nothing in this chapter shall be taken to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(*a*) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(*b*) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader-suit against A and C.

Charge of plaintiff's costs.

475. When the suit is properly instituted, the Court may provide for the plaintiff's costs by giving him a charge on the thing claimed or in some other effectual way.

Procedure where a defendant is suing stakeholder.

Costs.

476. If any of the defendants in an interpleader-suit is actually suing the stakeholder in respect of the subject of such suit, the Court in which the suit against the stakeholder is pending shall, on being duly informed by the Court which passed the decree in the interpleader-suit in favour of the stakeholder, that such decree has been passed, stay the proceedings as against him; and his costs in the suit so stayed may be provided for in such suit; but if, and so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

PART IV.

PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

When plaintiff may apply that security be taken.

477. If at any stage of any suit, other than a suit for the possession of immoveable property, the plaintiff satisfies the Court by affidavit—

that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,

(*a*) has absconded or left the jurisdiction of the Court, or

(*b*) is about to abscond or to leave the jurisdiction of the Court, or

(*c*) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit.

Order to bring up defendant to show cause why he should not give security.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied

that the defendant, with any such intent as aforesaid,

(*a*) has absconded or left the jurisdiction of the Court, or

(*b*) is about to abscond or to leave the jurisdiction of the Court, or

(*c*) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under the circumstances last aforesaid,

the Court may issue an order for bringing the defendant before the Court to show cause why he should not give security for his appearance.

If defendant fail to show cause, Court may order him to make deposit or give security.

479. If the defendant fail to show such cause, the Court shall order him either to deposit in court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit.

The surety shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

Procedure in case of application by surety to be discharged.

480. The surety for the appearance of the defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

Procedure where defendant fails to give security or find fresh security.

481. If the defendant fail to comply with any order under section 479 or section 480, the Court may commit him to jail until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree: Provided that no person shall be imprisoned under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees.

Subsistence of defendant arrested.

482. The provisions of section 339 as to allowances payable for the subsistence of judgment-debtors shall apply to all defendants arrested under this chapter.

B.—Attachment before Judgment.

Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.

483. If at any stage of any suit the plaintiff satisfies the Court by affidavit that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,

(*a*) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(*b*) has quitted the jurisdiction of the Court, leaving therein property belonging to him,

the plaintiff may apply to the Court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit, and, on his failing to give such security, to direct that any portion of his property shall be attached until the further order of the Court.

Contents of application.

The application shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

Court may call on defendant to furnish security or show cause.

484. If the Court, after examining the applicant, and making any further investigation which it thinks fit, is satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, the Court may require him, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

Attachment if cause not shown or security not furnished.

485. If the defendant fail to show cause why he should not furnish security, or fail to furnish the security required within the time fixed by the Court, the Court may order that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, shall be attached.

Withdrawal of attachment.

If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

Mode of making attachment.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

Investigation of claims to property attached before judgment.

487. If any claim be preferred to the property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

Removal of attachment when security furnished.

488. When an order of attachment before judgment is passed, the Court which passed the order shall remove the attachment whenever the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.

489. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Property attached under this chapter, not to be re-attached in execution of decree.

490. Where property is under attachment by virtue of the provisions of this chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to re-attach the property in execution of such decree.

C.—Compensation for improper Arrests or Attachments.

Compensation for obtaining arrest or attachment on insufficient grounds.

491. If in any suit in which an arrest or attachment has been effected, it appear to the Court that such arrest or attachment was applied for on insufficient grounds,

or if the suit of the plaintiff fails, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding one thousand rupees, as

it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment:

Proviso.

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

Cases in which temporary injunction may be granted.

492. If in any suit it be proved by affidavit or otherwise

(*a*) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(*b*) that the defendant threatens, or is about to remove or dispose of his property with intent to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or give such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, or refuse such injunction or other order.

Injunction to restrain repetition or continuance of breach.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, whether compensation be claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

The Court may by order grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit, or refuse the same.

In case of disobedience, an injunction granted under this section or section 492 may be enforced by the imprisonment of the defendant for a term not exceeding six months, or the attachment of his property, or both.

No attachment under this section shall remain in force for more than one year, at the end of which time if the defendant has not obeyed the injunction, the property attached may be sold, and out of the proceeds the Court may award to the plaintiff such compensation as it thinks fit and may pay the balance, if any, to the defendant.

Cases granting injunction. Court may direct notice to be given to opposite party.

494. The Court shall in all cases, except where it appear that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

Injunction to corporation binding on its members and officers.

495. An injunction directed to a corporation or public company is binding not only on the corporation or company itself, but also on all members and officers of the corporation or company whose personal action it seeks to restrain.

Order for injunction may be discharged, varied or set aside.

496. Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Compensation to defendant for issue of injunction on insufficient grounds.

497. If it appears to the Court that the injunction was applied for on insufficient grounds, or

if, after the issue of the injunction, the suit is dismissed or judgment is given against the plaintiff by default or otherwise, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction:

Proviso.

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

B.—Interlocutory Orders.

Power to order interim sale of perishable articles.

498. The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any moveable property being the subject of such suit, which is subject to speedy and natural decay.

Power to make order for detention, &c., of subject-matter and to authorize entry, taking of samples and experiments.

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit,

(*a*) make an order for the detention, preservation or inspection of any property being the subject of such suit;

(*b*) for all or any of the purposes aforesaid, authorize any person to enter upon or into any land or building in the possession of any other party to such suit, and

(*c*) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

The provisions hereinbefore contained as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this section.

Application for such orders to be after notice.

500. An application by the plaintiff for an order under section 498 or section 499 may be made after notice in writing to the defendant at any time after service of the summons.

An application by the defendant for a like order may be made after notice in writing to the plaintiff, and at any time after the applicant has appeared.

When party may be put in immediate possession of land, the subject of suit.

501. When land paying revenue to Government, or a tenure liable to sale, is the subject of a suit, if the party in possession of such land or tenure neglects to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure;

and the Court in its decree may award against the defaulter the amount so paid, with interest thereupon at such rate as the Court thinks fit, or may charge the amount so paid, with interest thereupon at such rate as the Court orders, in any adjustment of accounts which may be directed in the decree passed in the suit.

Deposit of money, &c., in Court.

502. When the subject-matter of a suit is money or some other thing capable of delivery, and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in court or delivered to such last-named party, with or without security, subject to the further direction of the Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS.

Power of Court to appoint receivers.

503. Whenever it appears to the Court to be necessary for the realization, preservation or better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may by order

(*a*) appoint a receiver of such property, and, if need be,

(*b*) remove the person in whose possession or custody the property may be from the possession or custody thereof;

(*c*) commit the same to the custody or management of such receiver; and

(*d*) grant to such receiver such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the Court thinks fit.

Receiver's liabilities.

Every receiver so appointed shall

(*e*) give such security (if any) as the Court thinks fit duly to account for what he shall receive in respect of the property,

(*f*) pass his accounts at such periods and in such form as the Court directs,

(*g*) pay the balance due from him thereon as the Court directs, and

(*h*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Nothing in this section authorizes the Court to remove from the possession or custody of property under attachment any person whom the parties to the suit, or some or one of them, have or has not a present right so to remove.

When Collector may be appointed receiver.

504. If the property be land paying revenue to Government, or land of which the revenue has been assigned or redeemed, and the Court considers that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver of such property.

Courts empowered under this chapter.

505. The powers conferred by this chapter shall be exercised only by High Courts and District Courts. Provided that whenever the Judge of a Court subordinate to a District Court considers it expedient that a receiver should be appointed in any suit before him, he shall nominate such person as he considers fit for such appointment, and submit such person's name, with the grounds for the nomination, to the District Court, and the District Court shall authorize such Judge to appoint the person so nominated or pass such other order as it thinks fit.

PART V.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.

REFERENCE TO ARBITRATION.

Parties to suit may apply for order of reference.

506. If all the parties to a suit desire that any matter in difference between them in the suit be referred to arbitration, they may, at any time before judgment is pronounced, apply, in person or by their respective pleaders specially authorized in writing in this behalf, to the Court for an order of reference.

Every such application shall be in writing and shall state the particular matter sought to be referred.

Nomination of arbitrator.

507. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

When Court to nominate arbitrator.

If the parties cannot agree with respect to such nomination, or if the person whom they nominate refuses to accept the arbitration and the parties desire that the nomination shall be made by the Court, the Court shall nominate the arbitrator.

Order of reference.

508. The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award, and specify such time in the order.

When once a matter is referred to arbitration, the Court shall not deal with it in the same suit, except as hereinafter provided.

509. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators,

When reference is to two or more, order to provide for difference of opinion.

(*a*) by the appointment of an umpire, or

(*b*) by declaring that the decision shall be with the majority if the major part of the arbitrators agree, or

(*c*) by empowering the arbitrators to appoint an umpire, or

(*d*) otherwise, as may be agreed between the parties; or, if they cannot agree, as the Court determines.

If an umpire is appointed, the Court shall fix such time as it thinks reasonable for the delivery of his award in case he is required to act.

510. If the arbitrator, or, where there are more arbitrators than one, any of the arbitrators, or the umpire, dies, or refuses, or neglects, or becomes incapable to act, or leaves British India under circumstances showing that he will probably not return at an early date, the Court may in its discretion either appoint a new arbitrator or umpire in the place of the person so dying, or refusing, or neglecting, or becoming incapable to act, or leaving British India, or make an order superseding the arbitration, and in such case shall proceed with the suit.

Death, incapacity, &c., of arbitrators or umpire.

511. Where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice has been served, or such further time as the Court may in each case allow, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

Appointment of umpire by Court.

512. Every arbitrator or umpire appointed under section 509, 510 or 511 shall have the like powers as if his name had been inserted in the order of reference.

Powers of arbitrator or umpire appointed under sections 509, 510, 511.

513. The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire to examine, as the Court may issue in suits tried before it.

Summoning witnesses.

Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

Punishment for default, &c.

514. If from the want of the necessary evidence or information, or from any other cause, the arbitrators cannot complete the award within the period specified in the order, the Court may, if it think fit, either grant a further time, and from time to time enlarge the period for the delivery of the award, or make an order superseding the arbitration, and in such case shall proceed with the suit.

Extension of time for making award.

515. When an umpire has been appointed, he may enter on the reference in the place of the arbitrators

When umpire may arbitrate in lieu of arbitrators.

(*a*) if they have allowed the appointed time to expire without making an award, or

(*b*) when they have delivered to the Court or to the umpire a notice in writing, stating that they cannot agree.

516. When an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

Award to be signed and filed.

517. Upon any reference by an order of Court, the arbitrators or umpire may, with the consent of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court; and the Court shall deliver its opinion thereon; and such opinion shall be added to and form part of the award.

Arbitrators or umpire may state special case.

518. The Court may, by order, modify or correct an award,

Court may, on application, modify or correct award in certain cases.

(*a*) where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred, or

(*b*) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision.

519. The Court may also make such order as it thinks fit respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

Order as to costs of arbitration.

520. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit,

When award or matter referred to arbitration may be remitted.

(*a*) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration;

(*b*) where the award is so indefinite as to be incapable of execution;

(*c*) where an objection to the legality of the award is apparent upon the face of it.

521. An award remitted under section 520 becomes void on the refusal of the arbitrators or umpire to reconsider it. But no award shall be set aside except on one of the following grounds (namely)—

Grounds for setting aside award.

(*a*) corruption or misconduct of the arbitrator or umpire;

(*b*) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;

(*c*) the award having been made after the issue of an order by the Court superseding the arbitration and restoring the suit;

and no award shall be valid unless made within the period allowed by the Court.

522. If the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application has been made to set aside the award, or if the Court has refused such application,

Judgment to be according to award.

the Court shall, after the time for making such application has expired, proceed to give judgment according to the award,

or, if the award has been submitted to it in the form of a special case, according to its own opinion on such case:

Upon the judgment so given a decree shall follow, and shall be enforced in manner provided in this Code for the execution of decrees. No appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award.

Decree to follow.

523. When any persons agree in writing that any difference between them shall be referred to the arbitration of any person named in the agreement or to be appointed by any Court having jurisdiction in the matter to which the agreement relates, the parties thereto, or any of them, may apply that the agreement be filed in Court.

Agreement to refer to arbitration may be filed in Court.

The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

Application to be numbered and registered.

On such application being made, the Court shall direct notice thereof to be given to any of the parties to the agreement other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

Notice to show cause against filing it.

If no sufficient cause be shown, the Court may cause the agreement to be filed, and shall make an order of reference thereon, and may also nominate the arbitrator when he is not named therein and the parties cannot agree as to the nomination.

524. The foregoing provisions of this chapter, so far as they are consistent with any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court under section 523, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Provisions of this chapter applicable to proceedings under order of reference.

525. When any matter has been referred to arbitration without the intervention of a Court of Justice, and an award has been made thereon, any person interested in the award may apply to the Court of the lowest grade having jurisdiction over the matter to which the award relates, that the award be filed in Court.

Filing award in matter referred to arbitration without intervention of Court.

The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

Application to be numbered and registered.

The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

Notice to parties to arbitration.

526. If no ground such as is mentioned or referred to in section 520 or 521, be shown against the award, the Court shall order it to be filed, and such award shall then take effect as an award made under the provisions of this chapter.

Filing and enforcement of such award.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Parties claiming to be interested in the decision of any question of fact or law, may enter into an agreement in writing stating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,

Power to state case for Court's opinion.

(*a*) a sum of money fixed by the parties or to be determined by the Court, shall be paid by one of the parties to the other of them; or

(*b*) some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or

(*c*) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby.

528. If the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be

When value of subject-matter must be stated.

delivered, or to which the act specified has reference, shall be stated in the agreement.

Agreement to be filed and numbered as a suit.

529. The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested, as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Parties to be subject to Court's jurisdiction.

530. When the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of the case.

531. The case shall be set down for hearing as a suit instituted under chapter V, the provisions of which shall apply to such suit so far as the same are applicable.

If the Court is satisfied, after an examination of the parties, or taking such evidence as it thinks fit,

(*a*) that the agreement was duly executed by them, and

(*b*) that they have a *bonâ fide* interest in the question stated therein, and

(*c*) that the same is fit to be decided,

it shall proceed to pronounce judgment thereon, in the same way as in an ordinary suit, and upon the judgment so given a decree shall follow, and shall be enforced in the manner provided in this Code for the execution of decrees.

CHAPTER XXXIX.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

Institution of summary suits upon bills of exchange, &c.

532. In any Court to which this section applies all suits upon bills of exchange, hundís or promissory notes may, in case the plaintiff desires to proceed under this chapter, be instituted by presenting a plaint in the form prescribed by this Code; but the summons shall be in the form contained in the fourth schedule hereto annexed, No. 172, or in such other form as the High Court may from time to time prescribe.

In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter mentioned so to appear and defend;

and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

Payment into Court of sum mentioned in summons.

The defendant shall not be required to pay into Court the sum mentioned in the summons, or to give security therefor, unless the Court thinks his defence not to be *primâ facie* sustainable, or feels reasonable doubt as to its good faith.

Explanation.—This section is not confined to cases in which the bill, hundi or note sued upon, together with mere lapse of time, is sufficient to establish a *primâ facie* right to recover.

Defendant showing defence on merits to have leave to appear.

533. The Court shall, upon application by the defendant, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon affidavits satisfactory to the Court, which disclose a defence or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as the Court thinks fit.

Power to set aside decree.

534. After decree, the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it seem reasonable to the Court so to do, and on such terms as the Court thinks fit.

Power to order bill to be deposited with officer of Court.

535. In any proceeding under this chapter the Court may order the bill, hundí or note on which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

Recovery of cost of noting non-acceptance of dishonoured bill.

536. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

Procedure in suits under this chapter.

537. Except as provided by sections 532 to 536 both inclusive, the procedure in suits under this chapter shall be the same as the procedure in suits instituted under chapter V.

Power to extend this chapter.

538. Sections 532 to 537 (both inclusive) apply only to—

(*a*) the High Courts of Judicature at Fort William, Madras and Bombay;

(*b*) the Court of the Recorder of Rangoon;

(*c*) the Courts of Small Causes in Calcutta, Madras and Bombay;

(*d*) the Court of the Judge of Karáchi; and

(*e*) any other Court having ordinary original civil jurisdiction to which the Local Government may, by notification in the official Gazette, apply them.

In case of such application the Local Government may direct by whom any of the powers and duties incident to the provisions so applied shall be exercised and performed, and make any rules which it thinks requisite for carrying into operation the provisions so applied.

Within one month after such notification has been published, such provisions shall apply accordingly, and the rules so made shall have the force of law.

The Local Government may from time to time alter or cancel any such notification.

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

When suit relating to public charities may be brought.

539. In case of any alleged breach of any express or constructive trust created for public charitable purposes, or whenever the direction of the Court is deemed necessary for the administration of any such trust, the Advocate General acting *ex-officio*, or two or more persons having a direct interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit in the High Court or the District Court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

(*a*) appointing new trustees of the charity:

(*b*) vesting any property in the trustees of the charity:

(*c*) declaring the proportions in which its objects are entitled:

(*d*) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged:

(*e*) settling a scheme for its management;

or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate General may (where there is no Advocate General) be exercised by the Government Advocate) or (where there is no Government Advocate) by such officer as the Local Government may appoint in this behalf.

PART VI.

OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

Appeal to lie from all original decrees, except when expressly prohibited.

540. Unless when otherwise expressly provided in this Code or by any other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

Form of appeal.

541. The appeal shall be made in the form of a memorandum in writing presented by the appellant, and shall be accompanied by a copy of the decree appealed against and (unless the appellate Court dispenses therewith) of the judgment on which it is founded.

Memorandum to be accompanied by copy of decree and judgment.

Such memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

Memorandum of appeal.

Appellant confined to grounds set out.

542. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant:

Provided that the Court shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

Rejection of memorandum or grounds of objection.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court, or be amended then and there.

When the Court rejects under this section any memorandum, it shall record the reasons for such rejection.

When a memorandum of appeal is amended under this section the Judge, or such officer as he appoints in this behalf, shall attest the amendment by his signature.

One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

544. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants as the case may be.

Of staying and executing Decrees under Appeal.

Execution of decree not stayed solely by reason of appeal.

545. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against the decree; but the Appellate Court may for sufficient cause order the execution to be stayed:

If an application be made for stay of execution of an appealable decree before the expiry of the time allowed for appealing therefrom, the Court which passed the decree may for sufficient cause order the execution to be stayed:

Stay of execution of appealable decree before time for appealing has expired.

Provided that no order shall be made under this section unless the Court making it is satisfied—

(*a*) that substantial loss may result to the party applying for stay of execution unless the order is made;

(*b*) that the application has been made without unreasonable delay; and

(*c*) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

Security required before making order to stay execution.

546. If an order is made for the execution of a decree against which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Appellate Court,

Security in case of order for execution of decree appealed against.

or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

And when an order has been passed for the sale of immoveable property in execution of a decree for money and an appeal is pending against such decree, the sale shall on the application of the judgment-debtor be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the Court which passed the decree thinks fit.

547. No such security as is mentioned in sections 545 and 546 shall be required from the Secretary of State for India in Council, or (when Government has undertaken the defence of the suit) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of presentation, and shall register the appeal in a book to be kept for the purpose.

Registry of memorandum of appeal.

Such book shall be called the Register of Appeals.

Register of appeals.

549. The Appellate Court may, at its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both:

Appellate Court may require appellant to give security for costs.

Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immoveable property within British India independent of the property (if any) to which the appeal relates.

When appellant resides out of British India.

If such security be not furnished within such time as the Court orders, the Court shall reject the appeal.

550. When the memorandum of appeal is registered, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made.

Appellate Court to give notice to Court whose decree is appealed against.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

Transmission of papers to Appellate Court.

Either party may apply in writing to the Court against whose decree the appeal is made, specifying any of such papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited accordingly.

Copies of exhibits in Court whose decree is appealed against.

551. The Appellate Court may, if it thinks fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the Court against whose decree the appeal is made, without sending notice of the appeal to such Court and without serving notice on the respondent or his pleader; but in such case the confirmation shall be notified to the same Court.

Power to confirm decision of lower Court without sending it notice.

552. The Appellate Court, unless where it confirms, under section 551, the decision of the lower Court, shall fix a day for hearing the appeal.

Day for hearing appeal.

Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

553. Notice of the day so fixed shall be stuck up in the appellate court-house, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided in chapter VI for the service on a defendant of a summons to appear and answer; and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice.

Publication and service of notice of day for hearing appeal.

Instead of sending the notice to the Court against whose decree the appeal is made, the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the rules above referred to.

Appellate Court may itself cause notice to be served.

554. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Contents of notice.

Procedure on Hearing.

555. On the day so fixed, or on any other day to which the hearing may be adjourned, the party having the right to begin shall be heard in support of or against the appeal, as the case may be. The other party shall then be heard, and the party having the right to begin shall then be entitled to reply.

Right to begin.

Explanation.—If the appeal is from the whole decree, or if there are cross-appeals, the party having the right to begin is the party who had the right to begin on the hearing in the Court whose decree is appealed from.

If the appeal is from only a portion of the decree, and there is no cross-appeal, the appellant has the right to begin.

556. If on the day so fixed, or any other day to which the hearing may be adjourned, the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

Dismissal of appeal for appellant's default.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

Hearing appeal *ex parte*.

557. If on the day so fixed, or any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed:

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

Provided that no such order shall be passed, although the notice has not been served upon the respondent, if on the day fixed for hearing the appeal the respondent appears in person or by a pleader, or by a duly authorized agent.

Proviso.

558. If an appeal be dismissed under section 556 or section 557, the appellant may apply to the Appellate Court for the re-admission of the appeal; and if it be proved that he was prevented by any sufficient cause from attending when the appeal was called on for hearing or from depositing the sum so required, the Court may readmit the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-admission of appeal dismissed for default.

559. If it appear to the Court at the hearing that any person who was a party to the suit in the Court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court, and direct that such person be made a respondent.

Power to adjourn hearing, and direct persons appearing interested to be made respondents.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and if it be proved that the respondent was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-hearing on application of respondent against whom *ex parte* decree is made.

561. Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has given to the appellant or his pleader seven days' notice of such objection.

Upon hearing respondent may object to decree as if he had preferred separate appeal.

Such objection shall be in the form of a memorandum, and the provisions of section 541, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

Form of notice, and provisions applicable thereto.

562. If the Court against whose decree the appeal is made has disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties, and the decree upon such preliminary point is reversed in appeal, the Appellate Court may, if it thinks fit, by order remand the case, together with a copy of the order in appeal, to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the register and proceed to investigate the suit on the merits.

Remand of case by Appellate Court.

The Appellate Court may, if it think fit, direct what issue or issues shall be tried in any case so remanded.

563. When a case is remanded with directions to take any evidence so excluded the Court to which the case is remanded shall not take any other evidence in the case, except evidence tendered to contradict the evidence so taken.

When further evidence barred.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

Limit to remand.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall, after re-settling the issues, if necessary, finally determine the case notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

When evidence on record sufficient, Appellate Court shall determine case finally.

566. If the Court against whose decree the appeal is made has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and in such case shall direct such Court to take the additional evidence required,

When Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.

and such Court shall proceed to try such issue, and shall return to the Appellate Court its finding thereon together with the evidence.

Finding and evidence to be put on record. Objections to finding.

567. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, present a memorandum of objections to the finding.

Determination of appeal.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

Production of additional evidence in Appellate Court.

568. The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if

(*a*) the Court against whose decree the appeal is made refused to admit evidence which ought to have been admitted, or,

(*b*) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause,

the Appellate Court may allow such evidence to be produced, or document to be received, or witness to be examined.

Whenever additional evidence is admitted by an Appellate Court, the Court shall record on its proceedings the reason for such admission.

Mode of taking additional evidence.

569. Whenever additional evidence is allowed to be received, the Appellate Court may either take such evidence, or direct the Court against whose decree the appeal is made, or any other subordinate Court, to take such evidence and to send it when taken to the Appellate Court.

Points to be defined and recorded.

570. In all cases where additional evidence is directed or allowed to be taken, the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Of the Judgment in Appeal.

Judgment when and where pronounced.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

Language of judgment.

572. The judgment shall be written in English; provided that if English is not the mother-tongue of the Judge, and he is not able to write an intelligible judgment in English, the judgment shall be written in his mother-tongue or in the language of the Court.

Translation of judgment.

573. When the language in which the judgment is written is not the language of the Court, the judgment shall, if any party so require, be translated into such language, and the translation, after it has been ascertained to be correct, shall be signed by the Judge or such officer as he appoints in this behalf.

Contents of judgment.

574. The judgment of the Appellate Court shall state—

(*a*) the points for determination;

(*b*) the decision thereupon;

(*c*) the reasons for the decision; and

(*d*) when the decree appealed against is reversed or varied, the relief to which the appellant is entitled,

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.

Date and signature.

Decision when appeal is heard by two or more Judges.

575. When the appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

If there be no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed:

Provided that if the Bench hearing the appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who have heard the appeal, including those who first heard it.

When there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

The High Court may from time to time make rules consistent with this Code to regulate references under this section.

Dissent to be recorded.

576. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

What judgment may direct.

577. The judgment may be for confirming, varying or reversing the decree of the Court against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be passed in appeal, the Appellate Court may pass a decree or order accordingly.

No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

Of the Decree in Appeal.

Contents of decree.

579. The decree of the Appellate Court shall bear date the day on which the judgment was pronounced.

The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify clearly the relief granted or other determination of the appeal.

The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid.

The decree shall be signed and dated by the Judge or Judges who passed it:

Judge dissenting from judgment need not sign decree.

Provided that where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

Copies of judgment and decree to be furnished to parties.

580. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Court and at their expense.

Certified copy of decree to be sent to Court whose decree is appealed against.

581. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the register of civil suits.

Appellate Court to have same powers as Courts of original jurisdiction.

582. The Appellate Court shall have the same powers in appeals under this chapter as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under chapter V.

The provisions hereinbefore contained shall apply to appeals under this chapter so far as such provisions are applicable.

Execution of decree of Appellate Court.

583. When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this chapter desires to obtain execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred; and such Court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed for the execution of decrees in suits.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECREES.

Appeals to [illegible].

584. Unless when otherwise provided in this Code or by any other law, from all decrees passed in appeal by any Court subordinate to a High Court, an appeal shall lie to the High Court on any of the following grounds, (namely)—

Grounds of second appeal.

(*a*) the decision being contrary to some specified law or usage having the force of law;

(*b*) the decision having failed to determine some material issue of law or usage having the force of law;

(*c*) a substantial error or defect in the procedure as prescribed by this Code or any other law, which may have produced error or defect in the decision of the case upon the merits.

Second appeal only on grounds mentioned in section 584.

585. No second appeal shall lie except on the grounds mentioned in section 584.

No second appeal in certain suits.

586. No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees.

Provisions as to second appeals

587. The provisions contained in chapter XLI shall apply as far as may be to appeals under this chapter, and to the execution of decrees passed in such appeals.

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

Orders appealable.

588. An appeal shall lie from the following orders, under this Code and from no other such orders:—

(*a*) orders under section 20, staying proceedings in a suit,

(*b*) orders under section 32, striking out or adding the name of any person as plaintiff or defendant,

(*c*) orders under section 44, adding a cause of action,

(*d*) orders under section 47, excluding a cause of action,

(*e*) orders rejecting or returning plaints under section 53, clause (*d*), or section 54, clauses (*b*) and (*d*), or section 57, clauses (*b*) and (*c*),

(*f*) orders rejecting applications under section 102 (in cases open to appeal) for an order to set aside the dismissal of a suit,

(*g*) orders under section 120 where a party fails to appear in person,

(*h*) orders under section 168 for attachment of property,

(*i*) orders under section 176 where a party refuses to give evidence or produce a document called for by the Court,

(*j*) orders under section 244, as to questions relating to the execution of decrees, of the same nature with appealable orders made in the course of a suit,

(*k*) orders under section 258 compelling decree-holders to certify,

(*l*) orders under section 261 as to objections to draft-conveyances or draft-endorsements,

(*m*) orders under section 312 for confirming or setting aside a sale,

(*n*) orders in insolvency matters under section 351, 352, 353 or 357,

(*o*) orders rejecting applications under section 370 for dismissal of the suit,

(*p*) orders disallowing objections under section 372,

(*q*) orders as to interpleader-suits under section 473, 475 or 476,

(*r*) orders under section 479, 480, 481, 485, 492, 493, 496, 503,

(*s*) orders under section 514 superseding an arbitration,

(*t*) orders under section 518 modifying an award,

(*u*) orders under any of the provisions of this Code, imposing fines, or for the imprisonment of any person, except when such imprisonment is in execution of a decree,

(*v*) refusals under section 558 to re-admit, or under section 560 to re-hear, an appeal,

(*w*) orders under section 562 remanding a case.

The orders passed in appeals under this section shall be final.

589. An appeal from any order specified in section 588, clause (*u*), shall lie to the High Court.

Court which shall hear appeals.

When an appeal from any other order is allowed by this chapter, it shall lie to the Court to which an appeal would lie from the decree in the suit in relation to which such order was made or, when such order is passed by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

590. The procedure prescribed in chapter XLI shall, so far as may be, apply to appeals from orders under this Code, or under any special or local law in which a different procedure is not provided.

Procedur in appeals from orders.

591. Except as provided in this chapter, no appeal shall lie from any order passed by any Court on the exercise of its original or appellate jurisdiction; but if any decree be appealed against, any error, defect or irregularity in any such order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

CHAPTER XLIV.

OF PAUPER APPEALS.

592. Any person entitled under this Code or any other law to prefer an appeal, who is unable to pay the fee required for the petition of appeal, may, on presenting an application accompanied by a memorandum of appeal, be allowed to appeal as a pauper, subject to the rules contained in chapters XXVI, XLI, XLII and XLIII, in so far as those rules are applicable:

Persons may appeal as paupers.

Provided that the Court shall reject the application unless upon a perusal thereof and of the judgment and decree against which the appeal is made, it sees reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

Procedure on application for admission of appeal.

593. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the Appellate Court:

Enquiry into pauperism.

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court against whose decree the appeal is made, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such enquiry.

Proviso.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

594. In this chapter, unless there be something repugnant in the subject or context, the expression 'decree' includes also judgment and order.

'Decree' defined.

595. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained—

When appeals lie to Queen in Council.

an appeal shall lie to Her Majesty in Council

(*a*) from any final decree passed on appeal by a High Court or other Court of final appellate jurisdiction,

(*b*) from any final decree passed by a High Court in the exercise of original civil jurisdiction, and

(*c*) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

596. In each of the cases mentioned in clauses (*a*) and (*b*) of section 595,

Value of subject-matter.

the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal must involve some substantial question of law.

597. Notwithstanding anything contained in section 595,

Bar of certain appeals.

no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being;

and no appeal shall lie to Her Majesty in Council from any decree which, under section 586, is final.

598. Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

Application to Court whose decree is complained of.

599. Such application must ordinarily be made within six months from the date of such decree.

Time within which application must be made.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

600. Every petition under section 598 must state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of section 596, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Certificate as to value or fitness.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

601. If such certificate be refused, the petition shall be dismissed.

Effect of refusal of certificate.

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable, within thirty days from the date of the order, to the High Court to which the former Court is subordinate.

602. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,

Security and deposit required on grant of certificate.

(*a*) give security for the costs of the respondent, and

(*b*) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except

(1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being;

(2) papers which the parties agree to exclude;

(3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included, and

(4) such other documents as the High Court may direct to be excluded:

and when the applicant prefers to print in India the copy of the record, except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

603. When such security has been completed and deposit made to the satisfaction of the Court, the Court may

Admission of appeal and procedure thereon.

(*a*) declare the appeal admitted, and

(*b*) give notice thereof to the respondent, and shall then

(*c*) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and

(*d*) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

604. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

Revocation of acceptance of security.

605. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

Power to order further security or payment.

or further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

606. If the appellant fail to comply with such order, the proceedings shall be stayed,

Effect of failure to comply with order.

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,

and in the meantime execution of the decree appealed against shall not be stayed.

607. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section 602.

Refund of balance of deposit.

608. Notwithstanding the admission of any appeal under this chapter, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs.

Powers of Court pending appeal.

But the Court may, if it think fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court—

(*a*) impound any moveable property in dispute or any part thereof, or

(*b*) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or

(*c*) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or

(*d*) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal as it thinks fit.

Increase of security found inadequate.

609. If at any time during the pendency of the appeal, the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security.

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

Procedure to enforce orders of Queen in Council.

610. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.

When any monies expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

Appeal against order relating to execution.

611. The orders made by the Court which enforces or executes the order of Her Majesty in Council relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

Power to make rules.

612. The High Court may, from time to time, make rules consistent with this Act to regulate—

(*a*) the service of notices under section 600,

(*b*) the grant or refusal of certificates under sections 601 and 602 by Courts of final appellate jurisdiction subordinate to the High Court,

(*c*) the amount and nature of the security required under sections 602, 605 and 609,

(*d*) the testing of such security,

(*e*) the estimate of the cost of transcribing the record,

(*f*) the preparation, examination and certifying of such transcript,

(*g*) the revision and authentication of translations,

(*h*) the preparation of indices to transcripts of records, and of lists of the papers not included therein,

(*i*) the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council,

and all other matters connected with the enforcement of this chapter.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

Legalization of existing rules.

613. All rules heretofore made and published by any High Court relating to appeal to Her Majesty in Council and in force immediately before the passing of this Act, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Recorder of Rangoon.

614. In sections 595 and 612, the expression 'High Court' shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

Construction of Bengal Regulation III of 1828, section 4, clause 5.

615. The rules and restrictions referred to in Bengal Regulation III of 1828, section IV, clause *fifthly*, shall be deemed to be the rules and restrictions applicable to appeals under this Code from the decisions of the High Court of Judicature at Fort William in Bengal.

Saving of Her Majesty's pleasure.

616. Nothing herein contained shall be understood—

(*a*) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or

(*b*) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to Her Majesty in Council, or their conduct before the said Judicial Committee.

and of rules for conduct of business before Judicial Committee.

And nothing in this chapter applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, nor to appeals from orders and decrees of Prize Courts.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

Reference of question to High Court.

617. If before or on the hearing of a suit or appeal in which the decree is final, or if in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document which construction may affect the merits, arises, on which the Court trying the suit or appeal or executing the decree entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

Court may pass decree contingent upon opinion of High Court.

618. The Court may either stay the proceedings or proceed in the case, notwithstanding such reference, and may pass a decree or order contingent upon the opinion of the High Court on the point referred;

but no execution shall be issued, property sold, or person imprisoned in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon such reference.

Judgment of High Court to be transmitted, and case disposed of accordingly.

619. The High Court shall hear the parties to the case in which the reference is made, in person or by their respective pleaders, and shall decide the point so referred, and shall transmit a copy of its judgment under the signature of the Registrar, to the Court by which the reference was made, and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

Costs of reference to High Court.

620. Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the case.

Power to alter, &c., decrees of Court making reference.

621. When a case is referred to the High Court under this chapter, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed in the case out of which the reference arose, and make such order as it thinks fit.

Power to call for record of cases decided by Small Cause Courts, or, on appeal, by subordinate Courts.

622. The High Court may call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, and may pass such order in the case as the High Court thinks fit.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

Application for review of judgment.

623. Any person considering himself aggrieved—

(*a*) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred;

(*b*) by a decree or order from which no appeal is hereby allowed; or

(*c*) by a judgment on a reference from a Court of Small Causes;

and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the Court which passed the decree or made the order or to the Court, if any, to which the business of the former Court has been transferred.

A party who is not appealing from a decree may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except when the ground of such appeal is common to the applicant and the appellant, or when being a respondent, he can present to the Appellate Court the case on which he applies for the review.

To whom applications for review may be made.

624. Except upon the ground of the discovery of such new and important matter or evidence as aforesaid, or of some clerical error apparent on the face of the decree, no application for a review of judgment, other than that of a High Court, shall be made to any Judge other than the Judge who delivered it.

Form of applications for review.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

Application when rejected.

626. If it appear to the Court that there is not sufficient ground for a review, it shall reject the application.

If the Court be of opinion that the application for the review should be granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion:

Application when granted.

Proviso.

Provided that—

(*a*) no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for; and

(*b*) no such application shall be granted on the ground of discovery of new matter, or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him when the decree or order was passed, without strict proof of such allegation.

627. If the Judge or Judges, or any one of the Judges, who passed the decree or order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

Application for review in Court consisting of two or more Judges.

628. If the application for a review be heard by more than one Judge and the Court be equally divided, the application shall be rejected.

Application when rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. An order of the Court for rejecting the application shall be final, but whenever such application is admitted, the admission may be objected to on the ground that it was

Order of Court final.

(*a*) in contravention of the provisions of section 624,

(*b*) in contravention of the provisions of section 626, or

(*c*) after the expiration of the period of limitation prescribed therefor and without sufficient cause.

Such objection may be made at once by an appeal against the order granting the application, or may be taken in any appeal against the final decree or order made in the suit.

Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and if it be proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court may order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

No order shall be made under this section unless the applicant has served the opposite party with notice in writing of the latter application.

No application to review an order passed on review or on an application for a review shall be entertained.

630. When an application for a review is granted, a note thereof shall be made in the register and the Court may at once re-hear the case or make such order in regard to the re-hearing as it thinks fit.

Registry of application granted, and order for re-hearing.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This chapter applies only to High Courts which are or may hereafter be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*).

This part to apply only to certain High Courts.

632. Except as provided in this Chapter the provisions of this Code apply to such High Courts.

Application of Code to High Courts.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

High Court to record judgments according to its own rules.

634. Whenever a High Court considers it necessary that a decree made in the exercise of its ordinary original civil jurisdiction should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs;

Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

635. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its ordinary original civil jurisdiction or to examine witnesses, except when the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

Attorneys not to address Court, except when authorized

636. Notices to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the ordinary or extraordinary original civil jurisdiction of the High Court, and of its matrimonial, testamentary and intestate jurisdictions, except summonses to defendants issued under section 65, writs of execution, and notices under section 553, may be served by the attorneys in the suit, or by persons employed by them, or by such other persons as the High Court by any rule or order from time to time directs.

Process of High Courts may be served by attorneys in suit.

637. Any non-judicial or quasi-judicial act which this Code requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to do such act.

Non-judicial acts may be done by Registrar.

The High Court may from time to time by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

638. The following portions of this Code shall not apply to the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, namely, sections 16 and 17, sections 54, clauses (*a*) and (*b*), 57, 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 192 (so far as relates to the manner of taking evidence), 198 to 206 (both inclusive), 261, and so much of section 409 as relates to the making of a memorandum,

Sections not applying to High Court in original civil jurisdiction.

and section 579 shall not apply to the High Court in the exercise of its appellate jurisdiction.

Nothing in this Code shall extend or apply to any High Court in the exercise of its jurisdiction as an Insolvent Court.

Code not to affect High Court in exercise of insolvent jurisdiction.

639. The High Court may from time to time frame forms for any proceeding in such Court, and may make rules as to the books, entries and accounts to be kept by its officers.

Power to frame forms.

PART X.

CHAPTER XLIX.

MISCELLANEOUS.

640. Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in court.

Exemption of certain women from personal appearance.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

641. The Local Government may, by notification in the official Gazette, exempt from personal appearance in court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption, and may, by like notification, withdraw such privilege.

Local Government may exempt certain persons from personal appearance.

The names and residences of the persons so exempted shall from time to time be forwarded to the High Court by the Local Government, and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court, subordinate to the High Court, shall be kept in such subordinate Court.

List of names of persons exempted to be kept in subordinate Court.

When any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

Costs of commission rendered necessary by claiming privilege.

642. No Judge, Magistrate or other judicial officer shall be liable to arrest under this Code while going to, presiding in, or returning from his Court.

Persons exempt from arrest.

And, except as hereinafter provided, the parties to a suit and their pleaders and recognized agents shall be exempt from arrest under this Code while going to or attending a Civil Court for the purpose of such suit and while returning from such Court. Witnesses acting in obedience to a summons shall be similarly exempt.

643. When in a case pending before any Court, there appears to the Court sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in section 193, 196, 199, 200, 205, 206, 207, 208, 209, 210, 463, 471, 474, 475, 476 or 477 of the Indian Penal Code, which may be made in the course of any other suit or proceeding or with respect to any document offered in evidence in the case, the Court may cause the person accused to be detained till the rising of the Court, and may then send him in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

Procedure in case of certain offences.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and may bind over any person to appear and give evidence before such Magistrate.

The Magistrate shall receive such charge and proceed with it according to law.

644. Subject to the power conferred on the High Court by section 639 and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the fourth schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

Use of forms in fourth schedule.

645. The language which, when this Code comes into force, is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until the Local Government otherwise orders;

Language of subordinate Courts.

but it shall be lawful for the Local Government from time to time to declare what language shall be the language of every such Court.

646. Whenever the Registrar of a Court of Small Causes has any doubt upon any question of law or usage having the force of law, or as to the construction of a document which construction may

Power of Registrars of Small Cause Courts to state cases.

affect the merits of the decision, he may state a case for the opinion of the Judge; and all the provisions herein contained relative to the stating of a case by the Judge shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

Miscellaneous proceedings.

647. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction other than suits and appeals.

Admission of affidavits as evidence.

The High Court may from time to time make rules to provide for the admission, in such proceedings, of affidavits as evidence of the matters to which such affidavits respectively relate; and such rules, on being published in the local official Gazette, shall have the force of law.

Procedure when person to be arrested or property to be attached is outside the District.

648. If any person to be arrested or any property to be attached under this Code, resides or is situate outside the District within which the Court issuing the warrant of arrest or making the order of attachment is situate, such Court shall send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate, a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment,

and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued.

Rules applicable to all civil process for arrest, sale or payment.

649. The rules contained in chapter XIX shall apply to the execution of any judicial process for the arrest of a person or the sale of property or payment of money, which may be desired or ordered by a Civil Court in any civil proceeding.

Application of rules as to witnesses.

650. The provisions of chapters XIV and XV relating to witnesses shall apply to all persons required to give evidence, or to produce documents in any proceeding under this Code.

Penalty for escaping from custody under Code.

651. Whoever offers any resistance or illegal obstruction to the lawful apprehension of himself under this Code, or under the warrant of any Court of Civil Judicature, or escapes or attempts to escape from any custody in which he is lawfully detained under this Code or under such warrant, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Power to make subsidiary rules of procedure.

652. The High Court may from time to time make rules consistent with this Code to regulate any matter connected with the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

THE FIRST SCHEDULE.

(*See section* 3).

A.—STATUTE REPEALED.

Year and chapter.	Title.	Extent of repeal.
29 Char. II. chap. 7 ...	An Act for the better observance of the Lord's day commonly called Sunday.	The whole.

B.—ACTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
IX of 1840 ...	For amending the law administered in Her Majesty's Courts of Justice with reference to Arbitrations, Damages, and interested Witnesses.	So much as has not been repealed.
XXIII of 1840 ...	For executing within the local limits of the jurisdiction of Her Majesty's Courts legal Process issued by authorities in the Mufassal.	So far as it relates to the execution of the process of Civil Courts.
VIII of 1841 ...	Interpleader	The whole.
XXVI of 1841 ...	Extending 3 & 4 Wm. IV, c. 42 ...	So much as has not been repealed.
XIV of 1848 ...	Commissions for taking affidavits ...	The whole.
XVII of 1852 ...	Special cases	The whole.
XXXIII of 1852 ...	Enforcement of judgments ...	The whole Act, except so far as it relates to the decrees of Military Courts of Requests.
VI of 1855 ...	Writs of execution	The whole.
XXXIV of 1855 ...	Execution of judgments	The whole.
VIII of 1859 ...	For simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.	So much as has not been repealed.
XXIII of 1861 ...	To amend Act VIII of 1859 ...	So much as has not been repealed.
XX of 1862 ...	To provide for the levy of Fees and Stamp-duties in the High Court, &c.	So much as has not been repealed.
XXIV of 1862 ...	To continue in force Act XX of 1862	So much as has not been repealed.
IX of 1863 ...	To amend the Code of Civil Procedure	The whole.

THE FIRST SCHEDULE.

ACTS REPEALED—*continued.*

Number and year.	Subject or title.	Extent of repeal.
XVIII of 1863 ...	To make provision for the speedy and efficient disposal of the business, &c.	So much as has not been repealed.
XXXII of 1863 ...	To continue in force Act XX of 1862 ...	So much as has not been repealed.
XI of 1865 ...	Mufassal Small Cause Courts Act ...	Sections 8, 9, 10, 11, para. 2, 22, 23, 24, 25, 26, 27, 28, 42 and 47, and in section 32 the words "in the manner prescribed in the twenty-second section of this Act" and "contained in the twenty-second, twenty-third, twenty-fourth and twenty-fifth sections of this Act."
XIV of 1865 ...	Central Provinces Courts Act ...	Sections 17 and 18.
XIX of 1865 ...	Panjáb Courts Act	Sections 13 and 17.
V of 1866 ...	To provide a summary procedure on Bills of Exchange, &c.	In the title, the words *'to provide a summary procedure on Bills of Exchange and'* The preamble down to and including the words 'Notes; and' In section 1, the definitions of 'High Court' and 'Local Government.' Sections two to eight (both inclusive).
XXIV of 1866 ...	High Court, North-Western Provinces	Section fourteen.
X of 1867 ...	References by Mufassal Small Cause Courts.	So much as has not been repealed. The whole.
XXVI of 1867 ...	To amend the law relating to Stamp Duties.	So much as has not been repealed.
XV of 1869 ...	Prisoners' Testimony Act ...	So much of sections 15 and 16 as relates to process issued by a Civil Court.
IX of 1873 ...	Panjáb Appeals Act, 1873 ...	Sections 9 and 10.
VI of 1874 ...	The Privy Council Appeals Act, 1874...	The whole.

C.—REGULATIONS REPEALED.

Bengal Regulation XX of 1810.	Cantonments	So much of section XIX as relates to civil process.
Madras Regulation XIV of 1816.	Vakíls	Section 27.

THE SECOND SCHEDULE.

(See section 5).

Chapters and Sections of this Code extending to Mufassal Courts of Small Causes.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.
CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).
CHAPTER III.—Of Parties and their Appearances, Applications and Acts.
CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule *a*.
CHAPTER V.—Of the Institution of Suits.
CHAPTER VI.—Of the Issue and Service of Summons, except section 77.
CHAPTER VII.—Of the Appearance of the Parties and consequence of Non-appearance.
CHAPTER VIII.—Section 111, Set-off.
CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.
CHAPTER X.—Of Discovery and the Admission, &c., of Documents.
CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.
CHAPTER XIII.—Of Adjournments.
CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.
CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).
CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.
CHAPTER XVIII.—Sections 220, 221 and 222, of Costs.
CHAPTER XIX.—Of the Execution of Decrees, sections 230 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 280 (both inclusive), 283, 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).
CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
CHAPTER XXIII.—Of Payment into Court.
CHAPTER XXIV.—Of requiring Security for Costs.
CHAPTER XXV.—Of Commissions.
CHAPTER XXVI.—Suits by Paupers.
CHAPTER XXVII.—Suits by and against Government or Government Servants.
CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except the first paragraph of section 433.
CHAPTER XXIX.—Suits by and against Corporations and Companies.
CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.
CHAPTER XXXII.—Suits by and against Military Men.
CHAPTER XXXIII.—Interpleader.
CHAPTER XXXIV.—Of Arrest and Attachment before Judgment.
CHAPTER XXXVII.—Reference to Arbitration, sections 506 to 522 (both inclusive).
CHAPTER XXXVIII.—Of proceedings on Agreement of Parties.
CHAPTER XLVI.—Reference to and Revision by High Court.
CHAPTER XLVII.—Of Review of judgment.
CHAPTER XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), section 648 (so far as relates to arrests), sections 649 to 652 (both inclusive).

THE THIRD SCHEDULE.

(See section 7).

Bombay Enactments.

Bombay Regulation XXIX, 1827.
" " VII, 1830.
" " I, 1831.
" " XVI, 1831.
Act XIX of 1835.
" XIII of 1842.

THE FOURTH SCHEDULE.

(*See section* 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PART I. PLAINTS.

No. 1.

FOR MONEY LENT.

IN THE COURT OF AT

Civil Suit No.

A. B. of

against

C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , he lent the defendant rupees repayable on demand [*or* on the day of].

2. That the defendant has not paid the same, except rupees paid on the day of 18 .

[*If the plaintiff claims exemption from any law of limitation, say*:—

3. The plaintiff was a minor [*or* insane] from the day of till the day of].

4. The plaintiff prays judgment for rupees, with interest at per cent. from the day of 18 .

[NOTE.—The object of stating when the debt is to be repaid is merely to fix a date for interest. If, therefore interest is not claimed, the statement may be omitted.]

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(*Title.*)

A. B., and *G. H.*, the above-named plaintiffs, state as follows:—

1. That on the day of 18 , at , the defendant received rupees [*or* a cheque on the Bank for Rs.] from one *E. F.* for the use of the plaintiffs.

2. That the defendant has not paid [*or* delivered] the same accordingly.

3. The plaintiffs pray judgment for rupees, with interest at per cent. from the day of 18 .

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at he and *E. F.*, since deceased, delivered to the defendant [*one thousand barrels of flour, five hundred maunds of rice, or as the case may be*] for sale upon commission.

2. That on the day of 18 [*or*, on some day unknown to the plaintiff, before the day of 18], the defendant sold the said merchandise for rupees.

3. That the commission and expenses of the defendant thereon, amount to rupees.

4. That on the day of 18 , the plaintiff demanded from the defendant the proceeds of the said merchandise.

5. That he has not paid the same.

[*Demand of judgment.*]

No. 4.

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at annas per tola of fine silver.

2. That the plaintiff procured the said bars to be assayed by one *E. F.*, who was paid by the defendant for such assay, and that the said *E. F.* declared each of the said bars to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant Rs. annas therefor.

3. That each of the said bars did contain only 1,200 tolas of fine silver.

4. That the defendant has not repaid the sum so overpaid.

[*Demand of judgment.*]

[NOTE.—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , at the request [*or* by the authority] of the defendant, the plaintiff paid to one *E. F.* rupees.

2. That, in consideration thereof, the defendant promised [*or* became bound] to pay the same to the plaintiff on demand [*or as the case may be.*]

3. That [on the day of 18 , the plaintiff demanded payment of the same from the defendant, but] he has not paid the same.

[*Demand of judgment.*]

[NOTE.—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.* of deceased sold and delivered to the defendant [one hundred barrels of flour, or, the goods mentioned in the schedule hereto annexed, *or*, sundry goods].

2. That the defendant promised to pay rupees for the said goods on delivery [*or* on the day of *some day before the plaint was filed*].

3. That he has not paid the same.

4. That the said *E. F.* in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5. That on the day of 187 the said *E. F.* died.

6. That on the day of probate of the said will was granted to the plaintiff by the Court of .

7. The plaintiff as executor as aforesaid [*Demand of judgment*].

[NOTE.—If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.]

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff sold and delivered to the defendant [*sundry articles of house furniture*] but no express agreement was made as to the price.

2. That the same were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

[NOTE.—The law implies a promise to pay so much as the goods are reasonably worth.]

No. 8.

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at plaintiff sold to the defendant [*one hundred barrels of flour*] and, at the request of the defendant, delivered the same to one *E. F.*

2. That the defendant promised to pay to the plaintiff rupees therefor.

3. That he has not paid the same.

[*Demand of judgment.*]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff furnished to [*Mary Jones*] the wife of *James Jones* deceased, at her request, sundry articles of [*food and clothing*], but no express agreement was made as to the price.

2. That the same were necessary for her.

3. That the same were reasonably worth rupees.

4. That the said *James Jones* refused to pay the same.

5. That the defendant is the executor of the last will of the said *James Jones*.

[*Demand of judgment.*]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold to *E. F.* of deceased [*all the crops then growing on his farm in*].

2. That the said *E. F.* promised to pay the plaintiff rupees for the same.

3. That he did not pay the same.

4. That the defendant is administrator of the estate of the said *E. F.*

[*Demand of judgment.*]

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.* of sold to the defendant [*all the fruit growing in his orchard in*], but no express agreement was made as to the price.

2. That the same was reasonably worth rupees.

3. That the defendant has not paid the same.

4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the plaintiff committee of his estate with the usual powers for the management thereof.

5. The plaintiff as committee as aforesaid [*Demand of judgment.*]

[NOTE.—When the lunatic's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 4 and 5 substitute the following:—]

4. That on the day of the Civil Court of duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs and appointed the plaintiff Manager of his estate.

5. The plaintiff as Manager as aforesaid [*Demand of judgment.*]

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.* of agreed with the plaintiff that the plaintiff should make for him [*six tables and fifty chairs*], and that the said *E. F.* should pay for the same upon delivery thereof rupees.

2. That the plaintiff made the said goods, and on the day of 18 offered to deliver the same to the said *E. F.*, and has ever since been ready and willing so to do.

3. That the said *E. F.* has not accepted the said goods or paid for the same.

4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the defendant committee of his estate.

5. The plaintiff prays judgment for rupees with interest from the day of , at the rate of per cent. per annum, to be paid out of the estate of the said *E. F.* in the hands of the defendant.

No. 13.

FOR DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff put up at auction sundry [*articles of merchandise*], subject to the condition that all goods not paid for and removed by the purchaser thereof, within [*ten days*] after the sale, should be re-sold by auction on his account of which condition the defendant had notice.

2. That the defendant purchased [*one crate of crockery*] at the said auction at the price of rupees.

3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for [*ten days*] thereafter, of which the defendant had notice.

4. That the defendant did not take away the said goods purchased by him, nor pay therefor, within [*ten days*] after the sale, nor afterwards.

5. That on the day of 18 , at , the plaintiff re-sold the said [*crate of crockery*], on account of the defendant, by public auction, for rupees.

6. That the expenses attendant upon such re-sale amounted to rupees.

7. That the defendant has not paid the deficiency thus arising, amounting to rupees.

[*Demand of judgment.*]

NOTE to § 4. Unless the seller agreed to deliver, the purchaser must fetch the goods. See Act IX of 1872, sec. 93.]

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of *or*, a farm known as , in *or*, a piece of land lying, *&c.*]

2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, *or* farm, *or* land].

3. That he has not paid the same.

[*Demand of judgment.*]

NOTE.—Where there has been no actual conveyance, say, in § 1, "sold to the defendant the house, &c., and placed him in possession of the same."]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVEABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No. in the town of , *or* one hundred bighás of land in , bounded by the East Indian railroad, and by other lands of the plaintiff] for rupees.

2. That on the day of 18 , at , the plaintiff tendered [*or*, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.

3. That the defendant has not paid the said sum.

[*Demand of judgment.*]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].

2. That from the [said day] until the day of 18 , the plaintiff served the defendant as his clerk].

3. That the defendant has not paid the said salary.

[*Demand of judgment.*]

No. 17.

FOR SERVICES AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That between the day of 18 , and the day of 18 , at , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.

2. That the said services were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at plaintiff [furnished the paper for and printed one thousand copies of a book called] for the defendant, at his request [and delivered the same to him].

2. That the defendant promised to pay rupees therefor.

3. That he has not paid the same.

[*Demand of judgment.*]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff built a house [known as No. , in], and furnished the materials therefor, for the defendant, at his request; but no express agreement was made as to the price to be paid for such work and materials.

2. That the said work and materials were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 20.

FOR RENT RESERVED IN A LEASE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into a covenant with the plaintiff, under their hands, a copy of which is hereto annexed.

[*Or state the substance of the agreement.*]

2. That the defendant has not paid the rent of the [month] ending on the day of 18 , amounting to rupees.

[*Demand of judgment.*]

Another Form.

1. That the plaintiff let to the defendant a house No. 27 Chowringhee for seven years to hold from the day of 187 at rupees a year, payable quarterly.

2. That of such rent quarters are due and unpaid.

[*Demand of judgment.*]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant hired from the plaintiff [the house No. , street], at the rent of rupees, payable on the first days of .

2. That the defendant occupied the said premises from the day of 18 to the day of .

3. That the defendant has not paid rupees, being the part of said rent due on the first day of 18 .

[*Demand of judgment.*]

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(*Title.*)

A. B., the above-named plaintiff, executor of the will of *X. Y.*, deceased, states as follows:—

1. That the defendant occupied the [house No. , street], by permission of the said *X. Y.*, from the day of 18 , until the day of 18 and no agreement was made as to payment for the use of the said premises.

2. That the use of the said premises for the said period was reasonably worth rupees.

3. That the defendant has not paid the same.

4. The plaintiff as such executor as aforesaid prays judgment for rupees.

No. 23.

FOR BOARD AND LODGING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That from the day of 18, until the day of 18, the defendant occupied certain rooms in the house [No. , street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessaries.

2. That in consideration thereof, the defendant promised to pay, [*or* that no agreement was made as to payment for such meat, drink, attendance or necessaries, but the same were reasonably worth] the sum of rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 24.

FOR FREIGHT OF GOODS.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , plaintiff transported in [his barge, *or otherwise*] [one thousand barrels of flour, *or* sundry goods], from to , at the request of the defendant.

2. That the defendant promised to pay the plaintiff the sum of [one rupee per barrel] as freight thereon. [*Or*, that no agreement was made as to payment for such transportation, but that such transportation was reasonably worth rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 25.

FOR PASSAGE-MONEY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, plaintiff conveyed the defendant [in his ship, called the] from to at his request.

2. That the defendant promised to pay the plaintiff rupees therefor. [*or* that no agreement was made as to the price of the said passage; but that the said passage was reasonably worth rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 26.

ON AN AWARD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators [*or*, entered into an agreement, a copy of which is hereto annexed.]

2. That on the day of 18, at , the said arbitrators awarded that the defendant should [pay the plaintiff rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

[NOTE.—This will apply where the agreement to refer is not filed in Court.]

No. 27.

ON A FOREIGN JUDGMENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , in the State [*or* Kingdom] of , the Court of that State [*or* Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.

2. That the defendant has not paid the same.

[*Demand of judgment.*]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.

2. That afterwards, on the day of 187, the sum of rupees for of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[*Demand of judgment.*]

No. 29.

PAYEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of , 18, at , the defendant by his promissory note now overdue, promised to pay to the plaintiff rupees [days] after date.

2. That he has not paid the same [except rupees, paid on the day of 18].

[*Demand of judgment.*]

[NOTE.—*Where the note is payable after notice, for paras.* 1 *and* 2 *substitute*—]

1. That on the day of at the defendant by his promissory note promised to pay to the plaintiff rupees months after notice.

2. That notice was afterwards given by the plaintiff to the defendant to pay the same months after the said notice.

3. That the said time for payment has elapsed, but the defendant has not paid the same.

[*Where the note is payable at a particular place, say*—]

1.—That on the day of 187 at the defendant by his promissory note now overdue promised to pay to the plaintiff [at Messrs. *A. and Co.*, Madras] rupees months after date.

2.—That the said note was duly presented for payment [at Messrs. *A. and Co.*] aforesaid, but has not been paid.

Written statement of the Defendant.

In the Court, &c.

C. D., the above-named defendant, states as follows:—

1. The defendant made the note sued upon under the following circumstances: The plaintiff and defendant had for some years been in partnership as indigo manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, that the defendant should take over the whole of the partnership assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.

2. The plaintiff thereupon undertook to examine the partnership books and enquire into the state of the partnership assets and liabilities; and he did accordingly examine the said books and make the said enquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact was that the assets of the firm were less than Rs. 50,000 and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the second para. of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

No. 30.

FIRST INDORSEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his promissory note, now overdue, promised to pay to the order of *E. F.* [*or* to *E. F.* or order] rupees [days after date].

2. That the said *E. F.* indorsed the same to the plaintiff.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. [*As in the preceding form.*]

2. That the same was, by the indorsement of the said *E. F.* and of *G. H.* and *I. J.* [*or* and others] transferred to the plaintiff.

[*Demand of judgment.*]

No. 32.

FIRST INDORSEE AGAINST FIRST INDORSER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *E. F.*, on the day of 18 , at , by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.

2. That the defendant indorsed the same to the plaintiff.

3. That on the day of 18 the same was duly presented for payment, but was not paid.

[*Or state facts excusing want of presentment.*]

4. That the defendant had notice thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one *E. F.* a promissory note, now overdue, made [*or* purporting to have been made] by one *G. H.*, on the day of 18 , at , to the order of the defendant, for the sum of rupees [payable days after date].

2. That the same was by the indorsement of the said *E. F.*, [and others] transferred to the plaintiff. [*Or*, that the said *E. F.* indorsed the same to the plaintiff.]

3, 4 *and* 5. [*Same as* 3, 4 *and* 5 *of the preceding form.*]

[*Demand of judgment.*]

No. 34.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to him a promissory note, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant.

2, 3 *and* 4. [*As in No.* 33.]

[*Demand of judgment.*]

No. 35.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That a promissory note, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.

2, 3 *and* 4. [*As in No* 33.]

[*Demand of judgment.*]

No. 36.

SUBSEQUENT INDORSEE AGAINST MAKER, FIRST AND SECOND INDORSER.

IN THE COURT OF AT

Civil Suit No.

A. B. of

against

C. D. of

E. F. of

and

G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, *C. D.*, by his promissory note, now overdue, promised to pay to the order of the defendant, *E. F.*, rupees [months after date].

2. That the said *E. F.* indorsed the same to the defendant, *G. H.*, who indorsed it to the plaintiff.

3. That on the day of 18 , the same was presented [*or state facts excusing want of presentment*] to the said *C. D.* for payment, but was not paid.

4. That the said *E. F.* and *G. H.* had notice thereof.

5. That they have not paid the same.

[*Demand of judgment.*]

No. 37.

DRAWER AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees [days after date, *or* sight thereof].

2. That the defendant accepted the said bill. [*If the bill is payable at a certain time after sight, the date of acceptance should be stated, otherwise it is not necessary.*]

3. That he has not paid the same.

4. That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

[*Demand of judgment.*]

[NOTE.—Where the bill is payable to a third party, for paras. 1, 2, 3, say—]

1. That on &c., at &c., by his bill of exchange, now overdue, directed to the defendant the plaintiff required the defendant to pay to *E. F.* or order rupees months after date.
2. That the plaintiff delivered the said bill to the said *E. F.* on
3. That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

No. 38.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the plaintiff rupees after sight thereof.
2. That he has not paid the same.

[*Demand of judgment.*]

No. 39.

FIRST INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the order of one *G. H.* rupees after sight thereof.
2. That the said *G. H.* indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 40.

SUBSEQUENT INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [*As in the preceding form, to the end of art.* 1.]
2. That by the indorsement of the said *G. H.* [and others], the same was transferred to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his bill of exchange, directed to *E. F.*, required the said *E. F.* to pay to the plaintiff rupees [days after sight].
2. That on the day of 18 , the same was duly presented to the said *E. F.* for acceptance, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

[NOTE.—Notice of dishonour by non-acceptance must be given at once.]

No. 42.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at requiring one *G. H.* to pay to the order of the defendant rupees [days] after sight [*or* after date, *or* at sight] thereof, [and accepted by the said *G. H.* on the day of 18 .]
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 43.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one *E. F.*, a bill of exchange, now overdue, made [*or* purporting to have been made] by one *G. H.*, on the day of 18 , at requiring one *I. J.* to pay to the order of the defendant rupees days after sight thereof [*or otherwise*], and accepted by the said *I. J.* on the day of 18 . [*This clause may be omitted, if not according to the fact.*]
2. That the same was, by the indorsement of the said *E. F.* [and others], transferred to the plaintiff.
3. That on the day of 18 the same was presented to the said *I. J.* for payment, and was dishonoured.
4. That the defendant had due notice thereof.
5. That he has not paid the same.

[*Demand of judgment.*]

No. 44.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to plaintiff a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.* to pay to the order of *I. J.* rupees days after sight thereof [*or otherwise*], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 45.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.*, to pay to the order of one *I. J.* rupees days after sight thereof [*or otherwise*], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 46.

INDORSEE AGAINST DRAWEE, ACCEPTOR AND INDORSER.

IN THE COURT OF AT

Civil Regular No.

A. B. of
against
C. D. of
E. F. of
G. H. of

A, B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant. *C. D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.*, rupees [days after sight thereof].

2. That on the day of 18 , the said *E. F.* accepted the same.

3. That the said *G. H.* indorsed the same to the plaintiff.

4. That on the day of 18 , the same was presented to the said *E. F.* for payment, and was dishonoured.

5. That the other defendants had due notice thereof.

6. That they have not paid the same.

[*Demand of judgment.*]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bill of exchange drawn in Calcutta, required one *E. F.* to pay to the plaintiff in [London] pounds sterling, [sixty days] after sight thereof.

2. That on the day of 18 , the same was presented to the said *E. F.* for acceptance, and was dishonoured, and was thereupon duly protested.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

[5. That the value of pounds sterling, at the time of the service of notice of protest on the defendant, was rupees annas.]

Wherefore the plaintiff demands judgment against the defendant for rupees, with [ten per centum] compensation and interest from the day of 18

No. 48.

PAYEE AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. F.*, by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff rupees after date [*or* days after sight] thereof.

2. That on the day of 18 , the defendant accepted the said bill.

3. That he has not paid the same.

[*Demand of judgment.*]

[NOTE.—This form omits to state the delivery of the bill to the plaintiff or his title to sue. See *Churchill* v *Gardner*, 7 T. R. 596.]

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*, had an interest in] the ship at the time of its loss, as hereafter mentioned.

2. That on the day of 18 , at , the defendants, in consideration of rupees to them paid [*or*, which the plaintiff then promised to pay], executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed; [*or*, whereby they promised to pay to the plaintiff, within days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during its next voyage from to , whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding rupees].

3. That the said vessel, while proceeding on the voyage mentioned in the said policy, was on the day of 18 , totally lost by the perils of the sea [*or*, *otherwise*].

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 18 , he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendants have not paid the said loss.

[*Demand of judgment.*]

No. 50.

ON CARGO, LOST BY FIRE:—VALUED POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*, had an interest in] [one hundred bales of cotton] on board the ship at the time of its loss as hereafter mentioned.

2. That on the day of 18 , at , the defendant, in consideration of rupees which the plaintiff then paid [*or*, promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed; [*or*, whereby it promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, of the said goods before their landing at ; *or*, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should exceed per centum of the whole value of the goods].

3. That on the day of 18 , at , while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire.

4 *and* 5. [*As in paragraphs* 5 *and* 6 *of the last preceding Form.*]

Demand of judgment.]

No. 51.

ON FREIGHT:—VALUED POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff had an interest in the freight to be earned by the ship [ ] on her voyage from to , at the time of her loss as hereafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.

2. That on the day of 18 , at , the defendant in consideration of rupees to it paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [*or state its tenor, as before*].

3. That the said vessel, while proceeding upon the voyage mentioned in the said policy, was, on the day of 18 , totally lost by [the perils of the sea].

4. That the plaintiff has not received any freight from the said vessel, nor did she earn any on the said voyage, by reason of her loss as aforesaid.

5 *and* 6. [*As in Form No.* 50.]

[*Demand of judgment.*]

No. 52.

FOR A LOSS BY GENERAL AVERAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*, had an interest in] [one hundred bales of cotton] shipped on board a vessel called the *Y. Z.*, from to , at the time of the loss hereafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [*or state its tenor, as before.*]

3. That on the day of 18 , while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea, that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

4. That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of rupees.

5. That on the day of 18 , he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[*Demand of judgment.*]

No. 53.

FOR A PARTICULAR AVERAGE LOSS.

(*Title.*)

A. B., the above named plaintiff, states as follows:—

1 *and* 2. [*As in the preceding Form.*]

3. That on the day of 18 , while on the high seas, the sea-water broke into the said ship, and damaged the said [cotton] to the amount of rupees.

4 *and* 5. [*As in paragraphs* 5 *and* 6 *of the preceding Form.*]

[*Demand of judgment.*]

No. 54.

ON A FIRE INSURANCE POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff [was the owner of, *or*] had an interest in a [dwelling-house, known as No. , street, in the city of ,] at the time of its destruction [*or*, injury] by fire as hereinafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [to it paid], the defendant executed to the plaintiff a policy of insurance on the said [premises], a copy of which is hereto annexed [*or state its tenor*].

3. That on the day of 18 , the said [dwelling-house] was totally destroyed [*or*, greatly damaged] by fire.

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 18 , he furnished the defendant with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[*Demand of judgment.*]

No. 55.

AGAINST SURETIES FOR PAYMENT OF RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. F.* hired from the plaintiff, for the term of years, the [house No. street,], at the annual rent of rupees, payable [monthly].

2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said *E. F.*, to guarantee the punctual payment of the said rent.

3. That the rent aforesaid for the month of 18 , amounting to rupees, has not been paid.

[*If, by the terms of the agreement, notice is required to be given to the surety, add:*—]

4. That on the day of 18 , the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or* That on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of rupees then paid, and of the further sum of ten thousand rupees payable as hereafter mentioned, he would, on the day of 18 , at , execute to the plaintiff a sufficient conveyance of [the house No. street, in the city of free from all incumbrances; and the plaintiff agreed to pay ten thousand rupees for the same on delivery thereof]

2. That on the day of 18 , the plaintiff demanded the conveyance of the said property from the defendant and tendered rupees to the defendant [*or*, that all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.]

3. That the defendant has not executed any conveyance of the said property to the plaintiff [*or* That there is a mortgage upon the said property, made by to , for rupees, registered in the office of , on the day of 18 , and still unsatisfied, *or any other defect of title*].

4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

The plaintiff prays judgment for rupees compensation.

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or* that on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff, forty bighás of land in the village of , for rupees].

2. That on the day of 18 , at , the plaintiff being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [*or*, was ready and willing, and offered to convey the same to the defendant by a sufficient instrument,] on the payment by the defendant of the said sum.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That by an agreement dated the day of 187 , it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of rupees, upon the terms and conditions following (that is to say)—

(*a*) That the defendant should pay the plaintiff a deposit of rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the day of 187 , on which day the said purchase should be completed.

(*b*) That the plaintiff should deduce and make a good title to the said premises on or before the day of 187 , and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[*Demand of judgment.*]

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the day of 18 ,] and that the plaintiff should pay therefor rupees on delivery.

2. That on the [said] day, the plaintiff was ready and willing, and offered, to pay the defendant the said sum upon delivery of the said goods.

3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[*Demand of judgment.*]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, *or* in the capacity of foreman, *or as the case may be*], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services rupees [monthly].

2. That on the day of 18 , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.

3. That on the day of 18 , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[*Demand of judgment.*]

No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. [*As in last preceding Form.*]

2. That on the day of 18 , at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.

3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[*Demand of judgment.*]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at [an annual] compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year.]

2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 18 offered so to do].

3. That the defendant [entered upon the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 18 , he] refused to serve the plaintiff as aforesaid.

[*Demand of judgment.*]

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed :

[*Or state the tenor of the contract.*]

[2. That the plaintiff duly performed all the conditions of the said agreement on his part.]

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[*Demand of judgment.*]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed:

[*Or state the tenor of these covenants.*]

2. That after the making of the said agreement the plaintiff received the said [*apprentice*] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 18 , the said [*apprentice*] wilfully absented himself from the service of the plaintiff, and continues so to do.

[*Demand of judgment.*]

* The form given in Act XIX of 1873 requires the seal of the father or guardian.

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement with the plaintiff and his father, *E. F.*, under their hands and seals, a copy of which is hereto annexed.

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not [instructed the plaintiff in the business of , *or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment.*]

[*Demand of judgment.*]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff employed one *E. F.* as a clerk.

2. That on the day of 18 , at , the defendant agreed with the plaintiff, that if the said *E. F.* should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

[*Or*, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of rupees, conditioned that if the said *E. F.* should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void, but not otherwise.]

[*Or*, 2. That at the same time and place, the defendant executed to the plaintiff a bond, a copy of which is annexed.]

3. That between the day of 18 and the day of 18 , the said *E. F.* received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[*Demand of judgment.*]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by an instrument in writing, let to the plaintiff [the house No. street,] for the term of years, covenanting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the day of during the said term, one *E. F.*, who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of *G. H.* and *I. J.* by such removal.]

[*Demand of judgment.*]

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him rupees therefor.

2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which would otherwise have accrued to him while the engine was under repair.

[*Demand of judgment.*]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, being partners in trade under the firm of *A. B.* and *C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. That the plaintiff duly performed all the conditions of the said agreement on his part.

3. That on the day of 18 [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at , upon a debt due from the said firm to the said *E. F.*, and on the day of 18] the plaintiff paid rupees [in satisfaction of the same].

4. That the defendant has not paid the same to the plaintiff.

[*Demand of judgment.*]

No. 70.

BY SHIP-OWNER AGAINST FREIGHT OR FOR NOT LOADING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

[*Or*, 1. That on , at , the plaintiff and defendant agreed by charter party that the defendant should deliver to the plaintiff's ship at , on the day of 18 , five hundred tons of merchandise, which she should carry to , and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage, if required, at rupees per day.]

2. That at the time fixed by the said agreement the plaintiff was ready and willing and offered to receive [the said merchandise, *or*, the merchandise mentioned in the said agreement] from the defendant.

3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant entered upon certain land of the plaintiff, known as [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[*Demand of judgment.*]

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant entered a dwelling-house of the plaintiff called , and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[*Demand of judgment.*]

No. 73.

FOR TRESPASS ON MOVEABLES.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street [*or* seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, *or as the case may be*], and carried away the same and disposed of them to his own use :

[*or*, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.]

2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [*otherwise state the injury according to the facts*].

[*Demand of judgment.*]

No. 74.

FOR THE CONVERSION OF MOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , plaintiff was in possession of certain goods described in the schedule hereto annexed [*or* of one thousand barrels of flour].

2. That on that day, at , the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[*Demand of judgment.*]

The Schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, in consideration of the payment to him of rupees [*or*, per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour], and to deliver the same to the plaintiff on payment of the said sum.

2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].

3. That on the day of 18 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [*or*, the full amount of storage due thereon], but the defendant refused to deliver the same.

4. That the plaintiff was thereby prevented from selling the said goods to *E. F.*, and the same are lost to the plaintiff.

[*Demand of judgment.*]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.

3. That the said representations were false [*or, state the particular falsehoods*], and were then known by the defendant to be so.

4. That the defendant has not paid for the said goods. [*Or, if the goods were not delivered*] That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.

[*Demand of judgment.*]

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant represented to the plaintiff, that one *E. F.* was solvent and in good credit, and worth rupees over all his liabilities [*or*, that *E. F.* then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. That the plaintiff was thereby induced to sell to the said *E. F.* [rice] of the value of rupees [on month's credit].

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [*or*, to deceive and injure the plaintiff].

4. That the said *E. F.* [did not pay for the said goods at the expiration of the credit aforesaid, *or*,] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[*Demand of judgment.*]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called and situate in , and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.

2. That on the day of 18 , the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3. That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[*Demand of judgment.*]

No. 79.

FOR CARRYING ON A NOXIOUS MANUFACTURE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called situate in .

2. That ever since the day of 18 , the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.

3. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.

4. That by reason of the premises the plaintiff was unable to depasture the said lands with cattle and sheep, as he otherwise might have done, and was obliged to remove his cattle, sheep and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[*Demand of judgment.*]

No. 80.

FOR OBSTRUCTING A WAY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at the time hereafter mentioned was, possessed of [a house in the town of].

2. That he was accustomed to pass [with vehicles, *or*, on foot] along a certain way leading from his said house to [the highway].

3. That on the day of 18 , the defendant obstructed the said way, so that the plaintiff could not pass [with vehicles, *or*, on foot, *or*, in any manner] along the said way [and has ever since obstructed the same].

4. [*State special damage, if any.*]

[*Demand of judgment.*]

Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from to so as to obstruct it.

2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [*or*, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[*Demand of judgment.*]

No. 81.

FOR DIVERTING A WATER-COURSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream], known as the , in the village of , district of .

2. That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3. That on the day of 18 , the defendant, by cutting the bank of the said stream, diverted the water thereof, so that less water ran into the plaintiff's mill.

4. That by reason thereof, the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[*Demand of judgment.*]

No. 82.

FOR OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, &c., and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2. That on the day of the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by obstructing and diverting the said stream.

[*Demand of judgment.*]

No. 83.

FOR WASTE BY A LESSEE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant hired from him the [house No. street] for the term of

2. That the defendant occupied the same under such hiring.

3. That during the period of such occupation, the defendant greatly injured the premises [defaced the walls, tore up the floors, and broke down the doors; *or otherwise specify the injuries as far as possible*].

The plaintiff prays judgment for rupees compensation.

No. 84.

FOR ASSAULT AND BATTERY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant assaulted and beat him.

The plaintiff prays judgment for rupees compensation.

No. 85.

FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted and beat the plaintiff, until he became insensible.

2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay rupees for medical attendance, and has been ever since disabled [from using his right arm]. [*Or otherwise state the damage, as the case may be.*]

[*Demand of judgment.*]

No. 86.

FOR ASSAULT AND FALSE IMPRISONMENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted the plaintiff and imprisoned him for days [*or* hours]; [*state special damage, if any, thus*:—]

2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment, [*or otherwise as the case may be*].

[*Demand of judgment.*]

No. 87.

FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendants were common carriers of passengers by railway between and .

2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3. That while he was such passenger, at [*or*, near the station of ; *or*, between the stations of and], a collision occurred on the said railway, caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., *and state the special damage, if any, as*], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as a salesman.

[*Demand of judgment.*]

[*Or thus*:—2. That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, *&c., as in* § 3.]

No. 88.

FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is a shoe-maker, carrying on business at
The defendant is a merchant of

2. On the [23rd May 1875], the plaintiff was walking eastward along Chowringhee, in the city of Calcutta, at about three o'clock in the afternoon. He was obliged to cross Harington street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of Harington Street into Chowringhee. The pole of the carriage struck the plaintiff, and knocked him down, and he was much trampled by the horses.

3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages.

(*Title.*)

Written Statement of Defendant.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. *E. F.* and *G. H.*] of Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said Messrs. *E. F.* and *G. H.*

2. The defendant does not admit that the said carriage was turned out of Harington Street either negligently, suddenly, or without warning, or at a rapid or dangerous pace.

3. The defendant says, that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.

4. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

FOR LIBEL; THE WORDS BEING LIBELLOUS IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant published in a newspaper, called the [*or*, in a letter addressed to *E. F.*], the following words concerning the plaintiff:—

[*Set forth the words used.*]

2. That the said publication was false and malicious.

[*Demand of judgment.*]

NOTE.—If the libel was in a language not the language of the Court, set out the libel *verbatim* in the foreign language in which it was published, and then proceed thus:—"Which said words, being translated into the language, have the meaning and effect following, and were so understood by the persons to whom they were so published, that is to say, [*here set out a literal translation of the libel in the language of the Court.*]

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff [is, and] was, on and before the day of 18 merchant, doing business in the city of

2. That on the day of 18 , at , the defendant published in a newspaper, called the [*or*, in a letter addressed to *E. F.*, *or otherwise show how published*], the following words concerning the plaintiff:—

["*A. B.*, of this city, has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address."]

3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].

4. That the said publication was false and malicious.

[*Demand of judgment.*]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously spoke, in the hearing of *E. F.* [*or*, sundry persons], the following words concerning the plaintiff: "He is a thief"].

2. That, in consequence of the said words, the plaintiff lost his situation as in the employ of

[*Demand of judgment.*]

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously said to one *E. F.* concerning the plaintiff: ["He is a young man of remarkably easy conscience"].

2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.

3. That, in consequence of the said words, [the said *E. F.* refused to employ the plaintiff as a clerk].

[*Demand of judgment.*]

No. 93.

FOR MALICIOUS PROSECUTION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant obtained a warrant of arrest from [a magistrate of the said city, *or, as the case may be,*] on a charge of , and the plaintiff was arrested thereon, and imprisoned for [days, *or*, hours, and gave bail in the sum of rupees to obtain his release].

2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.

3. That on the day of 18 , the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.

4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; *or*, that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one *E. F.*, *or*, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[*Demand of judgment.*]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *X. Y.* was the absolute owner of [the estate, *or*, the share of the estate, called , situate in the District of , the Government revenue of which is rupees and the estimated value rupees *or*, of the house No. , street in the town of Calcutta, the estimated value of which is rupees].

2. That on the day of 18 , *Z* illegally dispossessed the said *X. Y.* of the said estate [*or* share *or* house].

3. That the said *X. Y.* has since died intestate, leaving the plaintiff the said *A. B.* his heir him surviving.

4. That the defendant withholds the possession of the estate [*or* share *or* house] from the plaintiff.

The plaintiff prays judgment:

(1) For the possession of the said premises;

(2) For rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows:—

1. On the day of , the plaintiff, by an instrument in writing, let to the defendant a house and premises No. 52, Russell Street, in the for a term of five years from the day of , at the monthly rent of rupees 300.

2. By the said instrument the defendant covenanted to keep the said house and premises ingood and tenantable repair.

3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4. On the day of 187 a month's rent became due, and on the day of 187 another month's rent became due; on the day of 187 both had been in arrear for twenty-one days, and both are still due.

5. On the same day of 187 the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to re-instate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims:

(1) Possession of the said house and premises;
(2) Rupees for arrears of rent;
(3) Rupees compensation for the defendant's breach of his covenant to repair;
(4) Rupees for the occupation of the house and premises from the day of 187 to the day of recovering possession.

No. 95.

BY THE TENANT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That one *E. F.* is the absolute owner of [a piece of land in the town of Calcutta, , bounded as follows:], the estimated value of which is rupees .

2. That on the day of 18 , the said *E. F.* let the said premises to the plaintiff for years, from

3. That the defendant withholds the possession thereof from the plaintiff.

[*Demand of judgment.*]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [*or* was possessed of] one hundred barrels of flour, the estimated value of which is rupees .

2. That on that day, at , the defendant took the same.

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [*or, state facts showing a right to the possession*] the goods mentioned in the schedule hereto annexed [*or describe the goods*], the estimated value of which is rupees .

2. That from that day until the commencement of this suit, the defendant has detained the same from the plaintiff.

3. That before the commencement of this suit, to wit, on the day of 18 , the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees, in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

The schedule.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1 That on the day of 18 , at , the defendant [*C. D.*], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell and deliver to the said *C. D.* [one hundred boxes of tea], the estimated value of which is rupees.

3. That the said representations were false, and were then known by the said *C. D.* to be so. [*Or*, That at the time of making the said representations, the said *C. D.* was insolvent, and knew himself to be so.]

4. That the said *C. D.* afterwards transferred the said goods to the defendant *E. F.*, without consideration [*or* who had notice of the falsity of the representation].

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees, in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained [ten bighás].

2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3. That on the day of 18 , the plaintiff paid the defend ant rupees as part of such purchase-money.

4. That the said piece of ground contained in fact only [five bighás].

The plaintiff prays judgment:

(1) For rupees, with interest from the day of 18 ;

(2) That the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is the absolute owner of [*describe the property*].

2. That the defendant is in possession of the same under a lease from the plaintiff.

3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment, that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[*Pecuniary compensation might also be prayed.*]

No. 101.

FOR ABATEMENT OF A NUISANCE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. , street, Calcutta].

2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].

3. That on the day of 18 , the defendant erected upon his said lot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].

4. That [the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].

The plaintiff prays judgment, that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

[*As in No.* 81.]

The Plaintiff prays judgment, that the defendant be restrained by injunction from diverting the water as aforesaid.

No. 103.

FOR RESTORATION OF MOVEABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather, which was executed by an eminent painter], and of which no duplicate exists [*or state any facts showing that the property is of a kind that cannot be replaced by money*].

2. That on the day of 18 , he deposited the same for safe-keeping with the defendant.

3. That on the day of 18 , he demanded the same from the defendant, and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff, and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the said [painting].

The plaintiff prays judgment:

(1) That the defendant be restrained by injunction from disposing of, injuring, or concealing the said [painting];

(2) That he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That before the date of the claims hereinafter mentioned, one *G. H.* deposited with the plaintiff [*describe the property*] for [safe keeping].

2. That the defendant, *C. D.*, claims the same [under an alleged assignment thereof to him from the said *G. H.*]

3. That the defendant, *E. F.*, also claims the same [under an order of the said *G. H.* transferring the same to him].

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

(1) That the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;

(2) That they be required to interplead together concerning their claims to the said property;

[(3) That some person be authorized to receive the said property pending such litigation];

(4) That upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. *E. F.*, late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [*here insert nature of debt and security, if any*].

2. The said *E. F.* made his Will, dated the day of and thereof appointed *C. D.* executor [*or*, devised his estate in trust, *&c.*, *or*, died intestate, *as the case may be*].

3. The said Will was proved by the said *C. D.* [*or*, letters of administration were granted, *&c.*].

4. The defendant has possessed himself of the moveable [and immoveable, *or*, the proceeds of the immoveable] property of the said *E. F.*, and has not paid the plaintiff his said debt.

5. The said *E. F.* died on or about the day of

6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said *E. F.*, deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEES.

(*Title.*)

[*Alter Form* 105 *thus*:—]

[*Omit paragraph* 1 *and commence paragraph* 2] *E. F.*, late of , duly made his last Will, dated the day of and thereof appointed *C. D.* executor, and by such Will bequeathed to the plaintiff [*here state the specific legacy*].

For paragraph 4, *substitute*—

The defendant is in possession of the moveable property of the said *E. F.*, and, amongst other things, of the said [*here name the subject of the specific bequest*].

For the commencement of paragraph 6 *substitute*—

The plaintiff prays that the defendant may be ordered to deliver to him the said [*here name the subject of the specific bequest*] or that, &c.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEES.

(*Title.*)

[*Alter Form* 105 *thus*:—].

[*Omit paragraph* 1 *and substitute for paragraph* 2] *E. F.*, late of , duly made his last Will, dated the day of , and thereof appointed *C. D.* executor, and by such Will bequeathed to the plaintiff a legacy of rupees

In paragraph 4, *substitute* "legacy" *for* "debt."

Another Form.

Between *E. F.* ... ... *Plaintiff,*

and

G. H. ... ... *Defendant.*

A. B., the above-named plaintiff, states as follows:—

1. *A. B.* of *K* in the duly made his last Will, dated the [first day of March 1873], whereby he appointed the defendant and *M. N.* [who died in the testator's life-time] executors thereof, and bequeathed his property, whether moveable or immoveable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immoveable property for the person who would be the testator's heir-at-law, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the [first day of July 1873], and his Will was proved by the defendant on the [fourth of October 1873]. The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immoveable property; the defendant entered into the receipt of the rents of the immoveable property and got in the moveable property; he has sold some part of the immoveable property.

The plaintiff claims—

(1) To have the moveable and immoveable property of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken.

(2) Such further or other relief as the nature of the case may require.

Between *E. F.* ... ... *Plaintiff,*

and

G. H. ... ... *Defendant.*

Written Statement of Defendant.

1. *A. B's* Will contained a charge of debts; he died insolvent; he was entitled at his death to some immoveable property which the defendant sold, and which produced the nett sum of rupees and the testator had some moveable property which the defendant got in, and which produced the nett sum of rupees

2. The defendant applied the whole of the said sums and the sum of rupees which the defendant received from rents of the immoveable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the [tenth of January 1875], and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.

4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

IN THE COURT OF AT

Civil Regular No.

A. B. of ... *Plaintiff,*

against

C. D. of the beneficiary [*or*, one

of the beneficiaries], ... *Defendant.*

A. B., the above-named plaintiff, states as follows:—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the day of made upon the marriage of the said *E. F.* and *G. H.* the father and mother of the defendant [*or*, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*].

2. The said *A. B.* has taken upon himself the burden of the said trust, and is in possession of [*or*, of the proceeds of] the moveable and immoveable property conveyed [*or* assigned] by the before-mentioned deed.

3. The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.

4. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, *or* of part of the said, immoveable property, *or* moveable, *or* the proceeds of the sale of, *or* of part of, the said moveable, property, *or* the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the Court may direct, or that the said *C. D.* may shew good cause to the contrary.

N. B.—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, *on the plaint by a legatee.*]

No. 109.

FORECLOSURE OR SALE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. By an instrument of mortgage bearing date on or about the day of 18 , a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed [*or* assigned] by the defendant to him the plaintiff, his heirs [*or* executors, administrators,] and assigns, for securing the principal sum of Rs. together with interest thereon after the rate of Rs. per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of Rs. for principal and interest on the said mortgage.

3. The plaintiff prays (*a*) that the Court will order the defendant to pay him the said sum of Rs. , with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the equity of redemption of the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (*b*) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (*c*) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (*d*) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

(*Title.*)

[*Alter Form* 109 *thus*:—]

Transpose parties and also the facts in paragraph 1.

or paragraph 2, *substitute*—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3, *substitute*—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey [*or* re-assign] the same to him upon payment of the said sum of Rs. and interest, with such costs (if any), as the Court may order upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance [*or* assignment], and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

No. 111.

SPECIFIC PERFORMANCE. (No. 1).

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. By an agreement dated the day of and signed by the above-named defendant, *C. D.*, he the said *C. D.* contracted to buy of [*or* sell to] him certain immoveable property, therein described and referred to, for the sum of Rs.

2. He has applied to the said *C. D.* specifically to perform the said agreement on his part, but he has not done so.

3. The said *A. B.* has been and still is ready and willing specifically to perform the agreement on his part, of which the said *C. D.* has had notice.

4. The plaintiff prays that the Court will order the said *A. B.* specifically to perform the said agreement, and to do all acts necessary to put the said *A. B.* in full possession of the said property [*or* to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[*N. B.—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs* 2 *and* 3, *and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled, such as that the plaintiff signed it by mistake, under distress, or by the fraud of the defendant, and alter the prayer according* to the *relief sought.*]

No. 112.

SPECIFIC PERFORMANCE. (No. 2).

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant was absolutely entitled to certain immoveable property described in the agreement hereto annexed.

2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. That on the day of 18 , the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

4. That on the day of 18 , the plaintiff again demanded such conveyance. [*Or*, that the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:

(1) That the defendant execute to the plaintiff a sufficient conveyance of the said property [*following the terms of the agreement*]

(2) For rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. He and the said *C. D.*, the defendant, have been for the space of years [*or* months] last past carrying on business together at within the jurisdiction of this Court, under certain articles of partnership in writing, signed by them respectively, [*or*, under a certain deed sealed and executed by them respectively, *or*, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [*or* deed, *or* agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [*or* deed, *or* agreement], or that, if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by of

Pleader for the plaintiff, *or* by

[*N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution: but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.*]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, section 58.]

Money lent.	The plaintiff's claim is	rs. for money lent [and interest].
Several demands.	The plaintiff's claim is	rs., whereof rs. is for the price of goods sold, and rs. for money lent, and rs. for interest.
Rent.	The plaintiff's claim is	rs. for arrears of rent.
Salary, &c.	The plaintiff's claim is	rs. for arrears of salary as a clerk [*or, as the case may be*].
Interest.	The plaintiff's claim is	rs. for interest upon money lent.
General average.	The plaintiff's claim is	rs. for a general average contribution.
Freight, &c.	The plaintiff's claim is	rs. for freight and demurrage.
Banker's balance.	The plaintiff's claim is	rs. for money deposited with the defendant as a banker.
Fees, &c., as pleader.	The plaintiff's claim is	rs. for fees for work done [and rs. money expended] as a pleader.
Commission.	The plaintiff's claim is	rs. for commission earned as [*state character, as* auctioneer, cotton-broker, *&c.*].
Medical attendance, &c.	The plaintiff's claim is	rs. for medical attendances.
Return of premium.	The plaintiff's claim is	rs. for a return of premiums paid upon policies of insurance.
Warehouse rent.	The plaintiff's claim is	rs. for the warehousing of goods.
Carriage of goods.	The plaintiff's claim is	rs. for the carriage of goods by railway.
Use and occupation of houses.	The plaintiff's claim is	rs. for the use and occupation of a house.
Hire of goods.	The plaintiff's claim is	rs. for the hire of [furniture].
Work done.	The plaintiff's claim is	rs. for work done as a [surveyor].
Board and lodging.	The plaintiff's claim is	rs. for board and lodging.
Schooling.	The plaintiff's claim is	rs. for the [board, lodging and] tuition of *X. Y.*
Money received.	The plaintiff's claim is	rs. for money received by the defendant as pleader [*or* factor, *or* collector, *or*, *&c.*] of the plaintiff.
Fees of office.	The plaintiff's claim is	rs. for fees received by the defendant under colour of the office of
Money overpaid.	The plaintiff's claim is	rs. for a return of money overcharged for the carriage of goods by railway.
	The plaintiff's claim is	rs. for a return of fees overcharged by the defendant as
Return of money by stake-holder.	The plaintiff's claim is	rs. for a return of money deposited with the defendant as stake-holder.
Money won from stake-holder.	The plaintiff's claim is	rs. for money entrusted to the defendant as stake-holder, and become payable to plaintiff.
Money entrusted to agent.	The plaintiff's claim is	rs. for a return of money entrusted to the defendant as agent of the plaintiff.
Money obtained by fraud.	The plaintiff's claim is	rs. for a return of money obtained from the plaintiff by fraud.
Money paid by mistake.	The plaintiff's claim is	rs. for a return of money paid to the defendant by mistake.
Money paid for consideration which has failed.	The plaintiff's claim is	rs. for a return of money paid to the defendant for [work to be done, *or* work left undone; *or*, a bill to be taken up, *or*, a bill not taken up, *or*, *&c.*]
	The plaintiff's claim is	rs. for a return of money paid as a deposit upon shares to be allotted.
Money paid by surety for defendant.	The plaintiff's claim is	rs. for money paid for the defendant as his surety.
Rent paid.	The plaintiff's claim is	rs. for money paid for rent due by the defendant.
Money paid on accommodation-bill.	The plaintiff's claim is	rs. upon a bill of exchange accepted [*or* indorsed] for the defendant's accommodation.
Contribution by surety.	The plaintiff's claim is	rs. for a contribution in respect of money paid by the plaintiff as surety.
By co-debtor.	The plaintiff's claim is	rs. for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.
Money paid for calls.	The plaintiff's claim is	rs. for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.
Money payable under award.	The plaintiff's claim is	rs. for money payable under an award.
Life-policy.	The plaintiff's claim is	rs. upon a policy of insurance upon the life of *X. Y.*, deceased.
Money-bond.	The plaintiff's claim is	rs. upon a bond to secure payment of rs. and interest.
Foreign judgment.	The plaintiff's claim is	rs. upon a judgment of the Court in [the Empire of Russia].
Bills of exchange, &c.	The plaintiff's claim is	rs. upon a cheque drawn by the defendant.
	The plaintiff's claim is	rs. upon a bill of exchange accepted [*or* drawn, *or* indorsed] by the defendant.
	The plaintiff's claim is	rs. upon a promissory note made [*or* indorsed] by the defendant.
	The plaintiff's claim is	rs. against the defendant, *A. B.*, as acceptor, and against the defendant, *C. D.*, as drawer [*or* indorser] of a bill of exchange.
Surety.	The plaintiff's claim is	rs. against the defendant as surety for the price of goods sold.

	The plaintiff's claim is rs. against the defendant, *A. B.*, as principal, and against the defendant, *C. D.*, as surety, for the price of goods sold [*or* for arrears of rent, *or* for money lent, *or* for money received by the defendant, *A. B.*, as traveller for the plaintiff, *or*, *&c.*].
Calls.	The plaintiff's claim is rs. for calls upon shares.

Indorsement for costs, &c.

[*Add to the above Forms*] and rs. for costs; and if the amount claimed be paid to the plaintiff or his pleader within days [*or, if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order*] from the service hereof, further proceedings will be stayed.

Damages and other claims.

Agent, &c.	The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.
	The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].
	The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.
	The plaintiff's claim is for damages for breach of duty as factor [*or*, *&c.*,] of the plaintiff [and rs. for money received as factor, *or* *&c.*]
Apprentices.	The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of *X. Y.* to the defendant [*or* plaintiff].
Arbitration.	The plaintiff's claim is for damages for non-compliance with the award of *X. Y.*
Assault, &c.	The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].
By husband and wife.	The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, *C. D.*
Against husband and wife.	The plaintiff's claim is for damages for assault by the defendant, *C. D.*
Pleader.	The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.
Bailment.	The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].
Pledge.	The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].
Hire.	The plaintiff's claim is for damages for negligence in the custody of furniture [*or*, a carriage] lent on hire, [and for wrongfully, *&c.*].
Banker.	The plaintiff's claim is for damages for wrongfully neglecting [*or* refusing] to pay the plaintiff's cheque.
Bill.	The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.
Bond.	The plaintiff's claim is upon a bond conditioned not to carry on the trade of a
Carrier.	The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.
	The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.
Charter-party.	The plaintiff's claim is for damages for breach of charter-party of ship [*Mary*].
Claim for return of goods; damages.	The plaintiff's claim is for return of household furniture, [*or*, *&c.*,] or their value, and for damages for detaining the same.
Damages for depriving of goods.	The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.
Defamation.	The plaintiff's claim is for damages for libel.
Wrongful distress.	The plaintiff's claim is for damages for slander.
	The plaintiff's claim is for damages for improperly distraining.

[*This Form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular.*]

Ejectment.	The plaintiff's claim is to recover possession of a house, No. in Street, or of a farm called Blackacre, situate in the of in the of
To establish title and recover rents.	The plaintiff's claim is to establish his title to [*here describe property*] and to recover the rents thereof.

[*The two previous Forms may be combined*].

Fishery.	The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.
Fraud.	The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [*or* a business, *or* shares, *or*, *&c.*].
	The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of *A. B.*
Guarantee.	The plaintiff's claim is for damages for breach of a contract of guarantee for *A. B.*
	The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distraiff.
Insurance.	The plaintiff's claim is for a loss under a policy upon the ship [*Royal Charter*], and freight of cargo [*or* for return of premiums].

[*This Form shall be sufficient whether the loss claimed be total or partial.*]

	The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture.
Fire insurance	The plaintiff's claim is for damages for breach of a contract to insure a house.
	The plaintiff's claim is for damages for breach of a contract to keep a house in repair.
Landlord and tenant.	The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.
Medical man.	The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, section 58.]

Money lent.	The plaintiff's claim is rs. for money lent [and interest].
Several demands.	The plaintiff's claim is rs., whereof rs. is for the price of goods sold, and rs. for money lent, and rs. for interest.
Rent.	The plaintiff's claim is rs. for arrears of rent.
Salary, &c.	The plaintiff's claim is rs. for arrears of salary as a clerk [*or, as the case may be*].
Interest.	The plaintiff's claim is rs. for interest upon money lent.
General average.	The plaintiff's claim is rs. for a general average contribution.
Freight, &c.	The plaintiff's claim is rs. for freight and demurrage.
Banker's balance.	The plaintiff's claim is rs. for money deposited with the defendant as a banker.
Fees, &c., as pleader.	The plaintiff's claim is rs. for fees for work done [and rs. money expended] as a pleader.
Commission.	The plaintiff's claim is rs. for commission earned as [*state character, as* auctioneer, cotton-broker, *&c.*].
Medical attendance, &c.	The plaintiff's claim is rs. for medical attendances.
Return of premium.	The plaintiff's claim is rs. for a return of premiums paid upon policies of insurance.
Warehouse rent.	The plaintiff's claim is rs. for the warehousing of goods.
Carriage of goods.	The plaintiff's claim is rs. for the carriage of goods by railway.
Use and occupation of houses.	The plaintiff's claim is rs. for the use and occupation of a house.
Hire of goods.	The plaintiff's claim is rs. for the hire of [furniture].
Work done.	The plaintiff's claim is rs. for work done as a [surveyor].
Board and lodging.	The plaintiff's claim is rs. for board and lodging.
Schooling.	The plaintiff's claim is rs. for the [board, lodging and] tuition of *X. Y.*
Money received.	The plaintiff's claim is rs. for money received by the defendant as pleader [*or* factor, *or* collector, *or*, *&c.*] of the plaintiff.
Fees of office.	The plaintiff's claim is rs. for fees received by the defendant under colour of the office of
Money overpaid.	The plaintiff's claim is rs. for a return of money overcharged for the carriage of goods by railway.
	The plaintiff's claim is rs. for a return of fees overcharged by the defendant as
Return of money by stake-holder.	The plaintiff's claim is rs. for a return of money deposited with the defendant as stake-holder.
Money won from stake-holder.	The plaintiff's claim is rs. for money entrusted to the defendant as stake-holder, and become payable to plaintiff.
Money entrusted to agent.	The plaintiff's claim is rs. for a return of money entrusted to the defendant as agent of the plaintiff.
Money obtained by fraud.	The plaintiff's claim is rs. for a return of money obtained from the plaintiff by fraud.
Money paid by mistake.	The plaintiff's claim is rs. for a return of money paid to the defendant by mistake.
Money paid for consideration which has failed.	The plaintiff's claim is rs. for a return of money paid to the defendant for [work to be done, *or* work left undone; *or*, a bill to be taken up, *or*, a bill not taken up, *or*, *&c.*]
	The plaintiff's claim is rs. for a return of money paid as a deposit upon shares to be allotted.
Money paid by surety for defendant.	The plaintiff's claim is rs. for money paid for the defendant as his surety.
Rent paid.	The plaintiff's claim is rs. for money paid for rent due by the defendant.
Money paid on accommodation-bill.	The plaintiff's claim is rs. upon a bill of exchange accepted [*or* indorsed] for the defendant's accommodation.
Contribution by surety.	The plaintiff's claim is rs. for a contribution in respect of money paid by the plaintiff as surety.
By co-debtor.	The plaintiff's claim is rs. for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.
Money paid for calls.	The plaintiff's claim is rs. for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.
Money payable under award.	The plaintiff's claim is rs. for money payable under an award.
Life-policy.	The plaintiff's claim is rs. upon a policy of insurance upon the life of *X. Y.*, deceased.
Money-bond.	The plaintiff's claim is rs. upon a bond to secure payment of rs. and interest.
Foreign judgment.	The plaintiff's claim is rs. upon a judgment of the Court in [the Empire of Russia].
Bills of exchange, &c.	The plaintiff's claim is rs. upon a cheque drawn by the defendant.
	The plaintiff's claim is rs. upon a bill of exchange accepted [*or* drawn, *or* indorsed] by the defendant.
	The plaintiff's claim is rs. upon a promissory note made [*or* indorsed] by the defendant.
	The plaintiff's claim is rs. against the defendant, *A. B.*, as acceptor, and against the defendant, *C. D.*, as drawer [*or* indorser] of a bill of exchange.
Surety.	The plaintiff's claim is rs. against the defendant as surety for the price of goods sold.

	The plaintiff's claim is rs. against the defendant, *A. B.*, as principal, and against the defendant, *C. D.*, as surety, for the price of goods sold [*or* for arrears of rent, *or* for money lent, *or* for money received by the defendant, *A. B.*, as traveller for the plaintiff, *or*, *&c.*].
Calls.	The plaintiff's claim is rs. for calls upon shares.

Indorsement for costs, &c.

[*Add to the above Forms*] and rs. for costs; and if the amount claimed be paid to the plaintiff or his pleader within days [*or, if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order*] from the service hereof, further proceedings will be stayed.

Damages and other claims.

Agent, &c.	The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.
	The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].
	The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.
	The plaintiff's claim is for damages for breach of duty as factor [*or*, *&c.*,] of the plaintiff [and rs. for money received as factor, *or &c.*]
Apprentices.	The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of *X. Y.* to the defendant [*or* plaintiff].
Arbitration.	The plaintiff's claim is for damages for non-compliance with the award of *X. Y.*
Assault, &c.	The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].
By husband and wife.	The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, *C. D.*
Against husband and wife.	The plaintiff's claim is for damages for assault by the defendant, *C. D.*
Pleader.	The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.
Bailment.	The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].
Pledge.	The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].
Hire.	The plaintiff's claim is for damages for negligence in the custody of furniture [*or*, a carriage] lent on hire, [and for wrongfully, *&c.*].
Banker.	The plaintiff's claim is for damages for wrongfully neglecting [*or* refusing] to pay the plaintiff's cheque.
Bill.	The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.
Bond.	The plaintiff's claim is upon a bond conditioned not to carry on the trade of a
Carrier.	The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.
	The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.
Charter-party.	The plaintiff's claim is for damages for breach of charter-party of ship [*Mary*].
Claim for return of goods; damages.	The plaintiff's claim is for return of household furniture, [*or*, *&c.*,] or their value, and for damages for detaining the same.
Damages for depriving of goods.	The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.
Defamation.	The plaintiff's claim is for damages for libel.
	The plaintiff's claim is for damages for slander.
Wrongful distress.	The plaintiff's claim is for damages for improperly distraining.
	[*This Form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular.*]
Ejectment.	The plaintiff's claim is to recover possession of a house, No. in Street, or of a farm called Blackacre, situate in the of in the of
To establish title and recover rents.	The plaintiff's claim is to establish his title to [*here describe property*] and to recover the rents thereof.
	[*The two previous Forms may be combined*].
Fishery.	The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.
Fraud.	The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [*or* a business, *or* shares, *or*, *&c.*].
	The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of *A. B.*
Guarantee.	The plaintiff's claim is for damages for breach of a contract of guarantee for *A. B.*
	The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.
Insurance.	The plaintiff's claim is for a loss under a policy upon the ship [*Royal Charter*], and freight of cargo [*or* for return of premiums].
	[*This Form shall be sufficient whether the loss claimed be total or partial.*]
	The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture.
Fire insurance	The plaintiff's claim is for damages for breach of a contract to insure a house.
	The plaintiff's claim is for damages for breach of a contract to keep a house in repair.
Landlord and tenant.	The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.
Medical man.	The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

Mischievous animal. The plaintiff's claim is for damages for injury by the defendant's dog.

Negligence. The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.

The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants.

Act XIII of 1855. The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.

The plaintiff's claim is as executor of *A. B.* deceased, for damages for the death of the said *A. B.*, from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.

Promise of marriage. The plaintiff's claim is for damages for breach of promise of marriage.

Sale of goods. The plaintiff's claim is for damages for breach of contract to accept and pay for goods.

The plaintiff's claim is for damages for non-delivery [*or* short delivery, *or* defective quality, *or other breach of contract of sale*] of cotton [*or, &c.*].

Sale of goods. The plaintiff's claim is for damages for breach of warranty of a horse.

Sale of land. The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] land.

The plaintiff's claim is for damages for breach of a contract to let [*or* take] a house.

The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] the lease, with good-will, fixtures, and stock-in-trade of a public-house.

The plaintiff's claim is for damages for breach of covenant for title [*or* for quiet enjoyment, *or*, *&c.*] in a conveyance of land.

Trespass on land. The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [*or* cutting his grass, *or* felling his timber, *or* pulling down his fences, *or* removing his gate, *or* using his road or path, *or* crossing his field, *or* depositing sand there, *or* carrying away gravel from thence, *or* carrying away stones from his river].

Support. The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or* house, *or* mine].

Way. The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, *or* private, way].

Water-course, &c. The plaintiff's claim is for damages for wrongfully diverting [*or* obstructing, *or* polluting, *or* diverting water from] a water-course.*

The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [*or* into the plaintiff's mine].

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

Pasture. The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.

[*This Form shall be sufficient whatever the nature of the right to pasture be.*]

Light. The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

Patent. The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

Copy-right. The plaintiff's claim is for damages for the infringement of the plaintiff's copy-right.

Trade-mark. The plaintiff's claim is for damages for wrongfully using [*or* imitating] the plaintiff's trade-mark.

Work. The plaintiff's claim is for damages for breach of a contract to build a ship [*or* to repair a house, *&c.*].

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, &c.

Nuisance. The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [*or, &c.*].

The plaintiff's claim is for damages from nuisance by noise from the defendant's works [*or* stables, *or, &c.*].

Injunction. [*Add to indorsement*]:—and for an injunction.

[*Add to indorsement where claim is to land, or to establish title, or both*]:—

Mesne profits. and for mesne profits.

Arrears of rent. and for an account of rents or arrears of rent.

Breach of covenant. and for breach of covenant for [repairs].

1. *Creditor to administer Estate.*

The plaintiff's claim is as a creditor of *X. Y.*, of deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the administrator of the said *X. Y.*, [and the defendants, *E. F.* and *G. H.*, as his coheirs at law.]

2. *Legatee to administer Estate.*

The plaintiff's claim is as a legatee under the will dated the day of 18 of *X. Y.*, deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the executor of the said *X. Y.* [and the defendants, *E. F.* and *G. H.*, as his devisees].

3. *Partnership.*

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the day of], and to have the affairs of the partnership wound up.

4. *By mortgagee.*

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the day of , made between [*parties*] [*or*, by deposit of title-deeds], and that the mortgage may be enforced by foreclosure or sale.

5. *By mortgagor.*

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated and made between [*parties*], and to redeem the property comprised therein.

6. *Raising Portions.*

The plaintiff's claim is that the sum of rs. which by an indenture of settlement, dated , was provided for the portions of the younger children of may be raised.

7. *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated and made between [*parties*] carried into execution.

8. *Cancellation, or Rectification.*

The plaintiff's claim is to have a deed dated and made between [*parties*] set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the day of for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at

---

No. 115.

PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will dated the day of of *C. W.* late of deceased, who died on the day of and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [*or, as the case may be*].

2. *By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased seeking to obtain the revocation of a probate granted in common form.*

The plaintiff claims to be executor of the last will dated the day of of *C.D.*, late of deceased, who died on the day of and to have the probate of a pretended will of the said deceased, dated the day of revoked. This summons is issued against you as the executor of the said pretended will [*or, as the case may be*].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of *C. D.*, late of deceased, who died on the day of dated the day of

The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.*

The plaintiff claims to be the brother and sole next-of-kin of *C.D.* of deceased, who died on the day of intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [*or, as the case may be*].

Indorsements of character of Parties.

The plaintiff's claim is as executor [*or* administrator] of *C.D.*, deceased, for, *&c.*

The plaintiff's claim is against the defendant, *A. B.*, as executor [*or, &c.*] of *C.D.*, deceased, for, *&c.*

The plaintiff's claim is against the defendant, *A.B.*, as executor of *X. Y.* deceased, and against the defendant, *C.D.*, in his personal capacity, for, *&c.*

By husband and wife-executrix. The claim of the plaintiff, *C D.*, is as executrix of *X. Y.*, deceased, and the claim of the plaintiff, *A.B.*, as her husband, for

Trustees. The plaintiff's claim is as [*or*, the plaintiff's claim is against the defendant as] trustee under the will of *A.B.* [*or* under the settlement upon the marriage of *A.B.* and *X. Y.* his wife].

Public officer. The plaintiff's claim is as public officer of the Bank, for

The plaintiff's claim is against the defendant as public officer of the Bank, for

The plaintiff's claim is against the defendant, *A.B.*, as principal, and against the defendant, *C.D.*, as public officer, of the Bank, as surety, for

Heir and devisee. The plaintiff's claim is against the defendant as heir-at-law of *A.B.*, deceased.

The plaintiff's claim is against the defendant, *C.D.*, as heir-at-law, and against the defendant, *E.F.*, as devisee, of lands under the will of *A.B.*

F.—MISCELLANEOUS.

No. 116.

Section 58 of the Code of Civil Procedure.

COURT of the of holden at

REGISTER OF CIVIL SUITS in the year 18 .

Date of presentation of plaint.	No. of Suit.	PLAINTIFF.			DEFENDANT.			CLAIM.			APPEARANCE.			JUDGMENT.			APPEAL.		EXECUTION.					RETURN OF EXECUTION.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or amount.	Date of Appeal.	Judgment in Appeal.	Date of application.	Date of Order.	Against whom.	For what, and amount if money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than payment of Arrest, and date of every Return.

No. 117.

SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure.

(*Title.*)

To dwelling at

WHEREAS has instituted a suit against you for you are hereby summoned to appear in this Court in person or by a duly authorized Pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the day of 18 , at o'clock in the forenoon, to answer the above-named plaintiff; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your Pleader , which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18 .

L. S.

Judge.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

NOTE.—*If written statements are required, say*—You are (*or* such a party is, *as the case may be*) required to put in a written statement by the day of

*****

No. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure.

(*Title.*)

To dwelling at

WHEREAS has instituted a suit against you for you are hereby summoned to appear in this Court in person or by a duly authorized Pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the day of 18 , at o'clock in the forenoon, to answer the above-named plaintiff; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the issues will be settled in your absence; and you will bring with you, or send by your Pleader , which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18 .

L. S.

Judge.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas from this Court to compel the attendance of any witness, and the production of any document that you have a right to call on the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

NOTE.—*If written statements are required, say*—You are (*or* such a party is, *as the case may be*) required to put in a written statement by the day of

No. 119.

SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure.

NO. OF SUIT.

IN THE COURT OF AT

Plaintiff.
Defendant.

To (*Name, description and address.*)

WHEREAS [*here enter the name, description and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*If not specially required to appear in person, state*—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here;* "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"]: and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

No. 120.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

The day of 18 .

WHEREAS it is stated in the plaint that , the defendant in the above suit is at present residing in , but that the right to sue accrued within the jurisdiction of this Court: it is ordered that a summons returnable on the day of 18 be forwarded for service on the said defendant, to the Court of with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

TO ACCOMPANY RETURN OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil suit No. of 18 .

The day of 18 .

A. B. of
against
C. D. of

Read proceeding from the forwarding for service on in Civil No. of that Court.

Read bailiff's endorsement on the back of the process stating that the and proof of the above having been duly taken by me on the [oath *or*] affirmation of and it is ordered that the be returned to the with a copy of this proceeding.

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 122.

DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure.

(*Title.*)

I, the undersigned defendant [*or* one of the defendants] disclaim all interest under the will of the said *E. F.* in the plaint named [*or*, as heir-at-law of, *or*, as next-of-kin, *or* one of the next-of-kin, of *E. F.*, deceased, in the said plaint named].

Or, I the undersigned defendant state, that I admit [*or* deny] [*here repeat in the language of the plaint the statements admitted or denied*].

Or, I the undersigned defendant submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [*or*, that it appears upon the said plaint that I am jointly liable with one *E. F.*, who is not a party to the suit, and not severally liable as by the plaint appears, *or*, that it appears by the said plaint that *G. H.* should have been a joint plaintiff with the said *A. B.* in the said suit, *or, as the case may be*].

Or, that the plaintiff has conveyed [*or* assigned] his interest in the said mortgage [*or* equity of redemption] to one *I. J.* [*or*, that I have conveyed or assigned to *H. L.* by way of further charge for securing the sum of Rs. , the equity of redemption in the property sought by the suit to be foreclosed].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership trading [*or, as the case may be*].

(*Signed*) *C. D.*,
Defendant.

No. 123.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18

A. B.
against
C. D., E. F. and *G. H.*

Interrogatories on behalf of the above-named *A. B.* [*or C. D.*] for the examination of the above-named [*E. F.* and *G. H.*, *or A. B.*].

1. Did not &c.

2. Has not &c.

The defendant *E. F.* is required to answer the interrogatories numbered

The defendant *G. H.* is required to answer the interrogatories numbered

No. 124.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B.
against
C. D.

Take notice that the plaintiff [*or* defendant] requires you to produce for his inspection the following documents referred to in your plaint [*or* written statement, *or* affidavit], dated the day of 18 .

Describe documents required.

X. Y. Pleader for the plaintiff [*or* the defendant].

To *Z.*

Pleader for the defendant [*or* plaintiff].

No. 125.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS your attendance is required to on behalf of the in the above cause, you are hereby required [personally to appear before this Court] on the day of 18 , at the hour of A. M. [and] to bring with you or to send to this Court

A sum of Rs. , being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you do not comply with this order, you will be subject to the consequence of non-attendance laid down in the Code of Civil Procedure, section 170.

Notice—(1). If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2). If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to you for each day's attendance beyond the day specified.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 126.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

Another Form.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.
Defendant.

To (*Name, description and address.*)

You are hereby summoned to appear in this Court in person on the day of at in the forenoon, to give evidence on behalf of the plaintiff [*or* the defendant] in the above-mentioned suit, and to produce [*here describe with convenient certainty any document the production of which may be required. If the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly*] and you are not to depart thence until you have been examined [*or* have produced the document] and the Court has risen, or unless you have obtained the leave of the Court.

FORMS OF DECREES.

No. 127.

SIMPLE MONEY-DECREE.

(*Title.*)

Claim for

THIS cause coming on for final disposal before in the presence of , on the part of the plaintiff, and on the part of the defendant, it is ordered that the do pay to the the sum of Rs. , with interest thereon at the rate of per cent. per from to the date of realization of the said sum, and do also pay to the the costs of this suit as taxed by the officer of the Court, with interest thereon at the rate aforesaid from the date of taxation to the date of realization.

Costs of suit.

PLAINTIFF.	Rs.	A.	P.	DEFENDANT.	Rs.	As	P.
1. Stamp for plaint ...				Stamp for power ...			
2. Do. for power ...				Do. petition ...			
3. Do. exhibits ...				Pleader's fee			
4. Pleader's fees on Rs. ...				Subsistence for witnesses ...			
5. Translation fee ...				Service of process ...			
6. Subsistence for witness for attendance ...				Translation fee ...			
7. Commissioner's fee ...				Commissioner's fee ...			
8. Service of process ...							
9. &c.							
TOTAL ...				TOTAL ...			

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 128.

DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(*Title.*)

It is ordered that it be referred to the Registrar [*or* Taxing Officer] to take an account of what is due to the plaintiff for principal and interest on the mortgage [*or* lien] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the Registrar do certify to the Court on the day of what he shall find to be due for principal and interest as aforesaid, and for costs; And upon the defendant paying into Court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months after the Registrar [*or* Taxing Officer] shall have presented his certificate; it is ordered that the plaintiff do reconvey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under him, and do deliver up to the Registrar [*or* Taxing Officer] all deeds and writings in his custody or power relating thereto, and that upon such reconveyance being made, and deeds and writings being delivered up, the Registrar [*or* Taxing Officer] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest and costs; but in default of the defendant paying into Court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or* the premises subject to the said lien] be sold with the approbation of the Registrar [*or* Taxing Officer]. And it is ordered that the money to arise by such sale be paid into Court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant.

No. 129.

FINAL DECREE FOR FORECLOSURE.

(*Title.*)

Whereas it appears to the Court that the defendant has not paid into Court the sum which was on the day of last certified by the Registrar to be due to the Plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in this suit on the day of last, and that the period of six months has elapsed since the said day of

It is ordered that the Defendant do stand absolutely debarred and foreclosed of and from all equity of redemption of, in, and to, the said mortgaged premises.

No. 130.

PRELIMINARY ORDER—ADMINISTRATION SUIT.

Section 213 of the Code of Civil Procedure.

(Title.)

It is ordered that the following accounts and inquiries be taken and made; that is to say:—

In creditor's suit—

1. That an account be taken of what is due to the Plaintiff and all other the creditors of the deceased.

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next-of-kin [*or* one of the next-of-kin] of the intestate.

[*After the first paragraph, the Order will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law, and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors, will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.*]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the Defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered, that the Defendant do, on or before the day of next, pay into Court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the *Registrar* shall find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into Court.

8. And that Mr. *E. F.* be Receiver in the suit [*or* proceeding], and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar [and shall give security by bond for the due performance of his duties to the amount of rupees].

9. And it is further ordered, that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say,—

(*a*) an inquiry what immoveable property the deceased was seised of or entitled to at the time of his death;

(*b*) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased, or any part thereof;

(*c*) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immoveable property of the deceased, or so much thereof as shall be necessary to make up the fund in Court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered, that *G. H.* shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered, that, for the purpose of the inquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of and that the Registrar do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

14. And, lastly, it is ordered, that this suit [*or* matter] stand adjourned for making final decree to the day of

[*Such part only of this order is to be used as is applicable to the particular case.*]

No. 131.

FINAL DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE.

Section 213 of the Code of Civil Procedure.

1. It is ordered that the defendant do on or before the day of pay into Court the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the estate of , the testator, and also the sum of Rs. for interest, at the rate of Rs. per centum per annum, from the day of to the day of amounting together to the sum of Rs.

2. Let the Registrar [*or* Taxing Officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rs. ordered to be paid into Court as aforesaid, as follows:—

(*a.*)—The costs of the plaintiff to Mr. , his attorney [*or* pleader], and the costs of the defendant to Mr. , his attorney [*or* pleader].

(*b.*)—And (*if any debts are due*), with the residue of the said sum of Rs. after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid; and after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.

3. And if there should then be any residue, let the same be paid to the residuary legatee.

DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

Section 213 of the Code of Civil Procedure.

1. Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff;

2. And it is ordered, that an account be taken of what is due for principal and interest on the said legacy;

3. And it is also ordered, that the defendant do within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest;

4. And it is ordered, that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ.

FINAL DECREE IN AN ADMINISTRATION SUIT BY NEXT-OF-KIN.

Section 213 of the Code of Civil Procedure.

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of *E. F.*, the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.

2. And it is ordered, that the residue of the said sum of Rs. , after payment of the plaintiffs' and defendant's costs as aforesaid, be paid and applied by defendant as follows:—

(*a.*)—Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs, *A. B.*, and *C.*, his wife, in her right, as the sister and one of the next-of-kin of the said *E. F.*, the intestate.

(*b.*)—Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next-of-kin of the said *E. F.*, the intestate.

(*c.*)—And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the ramaining one-third share of the said residue to *G. H.*, as the brother and the other next-of-kin of the said *E. F.*, the intestate.

No. 132.

ORDER—DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure.

(Title.)

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the *Gazette, &c.*

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property and effects now belonging to the said partnership;

2. An account of the debts and liabilities of the said partnership;

3. An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken and all the other acts required to be done be completed before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of

No. 133.

PARTNERSHIP. FINAL DECREE.

Section 215 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No.

A. B. of
against
C. D. of

It is ordered that the fund now in Court, amounting to the sum of Rs. be applied as follows:—

1. In payment of the debts due by the partnership set forth in the Registrar's certificate amounting in the whole to Rs.

2. In payment of the costs of all parties in this suit, amounting to Rs.
[*These costs must be ascertained before the decree is drawn up*].

3. In payment of the sum of Rs. to the plaintiff as his share of the partnership-assets, of the sum of Rs. , being the residue of the said sum of Rs. now in Court to the defendant as his share of the partnership-assets.

[*Or*, And that the remainder of the said sum of Rs. be paid to the said plaintiff (*or* defendant) in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts.

And that the defendant (*or* plaintiff) do on or before the day of pay to the plaintiff (*or* defendant) the sum of Rs. being the balance of the said sum of Rs. due to him, which will then remain due].

No. 134.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

Section 224 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D of

CERTIFIED that no [*or* partial, *as the case may be, and if partial, state to what extent*] satisfaction of the decree of this Court, in Civil Suit No. of 18 a copy of which is hereunto attached, has been obtained by execution within the jurisdiction of this Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 135.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .

A. B. of
against
C. D. of

To

WHEREAS has made application to this Court for execution of decree in Civil Suit No. 18 , this is to give you notice that you are to appear before this Court on the day of 18 , either in person or by a Pleader of this Court, or agent duly authorized and instructed to show cause, if any, why execution should not be granted.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 136.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANT'S POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

Section 254 of the Code of Civil Procedure.

(*Title.*)

TO THE BAILIFF OF THE COURT.

WHEREAS on the day of 18 , was ordered, by decree of this Court, passed , in Suit No. of 18 , to pay to the plaintiff the sum of Rs. as noted in the margin; and whereas the said has not been paid sum of Rs.

DECREE.			
Principal			
Interest			
Costs	—	—	—
Costs of decree . .			
Interest thereon . .			
Total of attachment	—	—	—
TOTAL . .			

THESE ARE TO COMMAND YOU to attach the moveable property of the said as set forth in the list hereunto annexed, or which shall be pointed out to you by the said , and unless the said shall pay to you the said sum of Rs. together with Rs. , the costs of this attachment, to hold the same until further orders from this Court.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 18 , with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 137.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &c.

Section 263 of the Code of Civil Procedure.

(*Title.*)

TO THE BAILIFF OF THE COURT.

WHEREAS , in the occupancy of has been decreed to , the plaintiff in this suit: you are hereby directed to put the said in possession of the same, and you are hereby authorized to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 in favour of for Rs. it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from

receiving from the following property in the possession of the said that is to say, to which the defendant is entitled, subject to any claim of the said , and the said is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT SECURED BY NEGOTIABLE INSTRUMENTS

Section 268 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 , in Civil Suit No. of 18 , in favour of for Rs. : it is ordered that the defendant be, and hereby, prohibited and restrained, until the further order of this Court, from receiving from you a certain debt alleged now to be due from you to the said defendant, namely, and that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from making payment of the said debt, or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 140.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &C.

Section 268 of the Code of Civil Procedure.

(*Title.*)

To

Defendant, and to

Company , Manager of

WHEREAS has failed to satisfy a decree passed against on the day of 18 , in Civil Suit No. of 18 in favour of for Rs. it is ordered that you, the defendant, be, and you are hereby, prohibited and restrained, until the further order of this Court, from making any transfer of shares in the aforesaid Company, namely, or from receiving payment of any dividends thereof; and you , the Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 141.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 274 of the Code of Civil Procedure.

(*Title.*)

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the day of 18 , in Civil Suit No. of 18 , in favour of for Rs. : it is ordered that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 142.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

Sections 272 and 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

SIR,

THE plaintiff having applied, under section of the Code of Civil Procedure, for an attachment of certain money now in your hands (*here state how the money is supposed to be in the hands of the person addressed, on what account, &c.*), I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,

SIR,

Your most obedient Servant,

L. S.

Dated the day of 18 .

Judge.

No. 143.

ORDER FOR PAYMENT TO THE PLAINTIFF, &C., OF MONEY, &C., IN THE HANDS OF A THIRD PARTY.

Section 277 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

Miscellaneous No. of 18 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT AND TO

WHEREAS the following property has been attached in execution of a decree in Civil Suit No. of 18 , passed on the day of 18 , in favour of for Rs. : it is ordered

that the property so attached, consisting of Rs. in money, and Rs. in Bank Notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you the said , to , and that the said property, so far as may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees, and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the said decree, shall be paid over to the said , and the remainder, if any, shall be paid to you, the said

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 144.

NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .
A. B. of
against
C. D. of

To

WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of the decree in Civil Suit No. of 18 this is to give you notice to appear before this Court on , the day of , 18 , either in person or by a Pleader of the Court duly instructed, to support your claim as attaching creditor.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 145.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

Section 287 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

THESE ARE TO COMMAND YOU to sell by auction, after giving days' previous notice, by affixing the same in this Court-house, and after making due proclamation,* the property attached under a Warrant from this Court dated the of 18 in execution of a decree in favour of in suit No. of 18 . or so much of the said property as shall realize the sum of Rs. , being the of the said decree and costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 18 with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

* This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed, should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered.

No. 146.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 300 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

WHEREAS has been the purchaser at a sale by auction in execution of the decree in the above suit of now in your possession, you are hereby prohibited from delivering possession of the said to any persons except the said .

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 147.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

and to

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of certain debt due from you to you , that is to say , it is ordered that you be and you are hereby prohibited from receiving, and you from making payment of, the said debt to any person or persons except the said .

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 148.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

and Manager of Company.

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of certain shares in the above Company, that is to say of standing in the name of you it is ordered

that you be, and you are hereby, prohibited from making, any transfer of the said shares to any person except the said the purchaser aforesaid, or from receiving any dividends thereon: and you , Manager of the said Company, from permitting any such transfer or making any such payment to any person except the said , the purchaser aforesaid.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 149.

ORDER CONFIRMING SALE OF LAND, &c.

Section 312 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

WHEREAS the following land (or immoveable property) was on the day of 18 sold by the Bailiff of this Court in execution of the decree in this suit; and whereas thirty days have elapsed and no application has been made (or objection allowed) to the said sale, it is ordered that the said sale be, and the said sale is hereby, confirmed.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 150.

CERTIFICATE OF SALE OF LAND.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

THIS is to certify that has been declared the purchaser at a sale by public auction on the day of 18 of the in execution of decree in this suit, and that the said sale has been duly confirmed by the Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 151.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

Section 318 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has become the certified purchaser of at a sale in execution of decree in Civil Regular No. of 18 , and whereas such land is in the possession of you are hereby ordered to put the said , the certified purchaser, as aforesaid, into possession of the said and if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 152.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND ON SECURITIES BEING GIVEN.

Section 326 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

Collector of

SIR,

In answer to your communication No. , dated representing that the sale in execution of decree in this suit of land, lying within your district, paying revenue to Government, is objectionable, I have the honour to inform you that you are authorized, on security to the amount of Rs. decreed to the in the above suit, being given to your satisfaction, to make provision for the satisfaction of the said decree in the manner recommended by you instead of proceeding to a public sale of

I have the honour to be,
SIR,
Your obedient Servant,

L. S.

Judge.

No. 153.

ORDER FOR COMMITTAL FOR RESISTING, &c., EXECUTION OF DECREE FOR LAND.

Section 329 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS it appears to the Court that has without just cause resisted (or obstructed) the execution of the decree of the Court

passed against
in Civil Suit, No. of 18 , whereby certain land or immoveable property
was adjudged to , it is ordered that the said
be committed to custody for a period of days.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 154.

WARRANT OF ARREST IN EXECUTION.

Section 337 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS was adjudged by a decree of the Court, in No. of 18 , dated 18 , to pay to the plaintiff the sum of Rs. as noted in the margin, and whereas the said sum of Rs. has not been paid to the said plaintiff in satisfaction of the said decree, these are to command you to arrest the said defendant, and unless the said defendant shall pay to you the said sum of Rs. , together with Rs. for the costs of executing this process, to bring the said defendant before the Court with all convenient speed. You are further commanded to return this warrant on or before the day of 18 , with an endorsement certifying the day and manner in which it has been executed, or the reason why it has not been executed.

Principal			
Interest			
Costs			
Execution			
TOTAL .			

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 155.

NOTICE OF PAYMENT INTO COURT.

Section 377 of the Code of Civil Procedure.

IN THE 187 .
B. No.
A. B. v. *C. D.*

TAKE notice that the defendant has paid into Court Rs. and says that that sum is enough to satisfy the plaintiff's claim [*or* the plaintiff's claim for, *&c.*].

To Mr. *X. Z.*,
the Plaintiff's Pleader,
Z.,
Defendant's Pleader.

No. 156.

COMMISSION TO EXAMINE ABSENT WITNESSES.

Section 386 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

WHEREAS the evidence o is required by the in the above suit; and whereas you are requested to take the

examination on interrogatories [*or* vivâ voce] of such witnesses and you are hereby appointed a Commissioner for that purpose, and you are further requested to make return of such examination so soon as it may be taken [Process to require the attendance of the witness will be issued by this Court on your application.]*

GIVEN under my hand and the seal of the Court, this day of .

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.

Sections 392 and 395 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for should be issued; you are hereby appointed Commissioner for the purpose of [process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on your application.]†

A sum of Rs. , being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

† Not necessary where the commission goes to another Court.

No. 158.

WARRANT OF ARREST BEFORE JUDGMENT.

Section 478 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the plaintiff in the above suit, has proved to the satisfaction of the Court that there is probable cause for believing that the defendant is about to these are to command you to take the said into custody, and to bring before the Court, in order that he may show cause why he should not furnish security to the amount of rupees for personal appearance before the Court, until such time as the said suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed against in the suit.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 159.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

WHEREAS , Plaintiff in this suit, has made application to the Court that security be taken for the appearance of the Defendant to answer any judgment that may be passed against in the suit; and whereas the Court has called upon the Defendant to furnish such security, or to offer a sufficient deposit in lieu of security, which has failed to do; it is ordered that the said Defendant be committed to custody until the decision of the suit; or if judgment be given against until the execution of the decree.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 160.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE.

Section 484 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has proved to the satisfaction of the Court that the Defendant in the above suit these are to command you to call upon the said Defendant on or before the day of either to furnish security for the sum of rupees to produce and place at the disposal of this Court when required or the value thereof, or such portion of the value as may be sufficient to fulfil any decree that may be passed against or to appear and show cause why should not furnish security; and you are further ordered to attach the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to the Court immediately after the execution hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 161.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the Plaintiff in this suit, has applied to the Court to call upon , the Defendant, to furnish security to fulfil any decree that may be passed against in the suit, and whereas the Court has called upon

the said to furnish such security which has failed to do ; these are to command you to attach the property of the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to this Court immediately after the execution hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 162.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

Defendant.

IT is ordered that you the said be, and you are hereby, prohibited and restrained until the further order of this Court from receiving from the following property in the possession of the said that is to say to which the defendant is entitled, subject to any claim of the said and the said is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 163.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

Defendant.

IT is ordered that you the said be, and you are hereby prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby, prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 164.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS, OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

IT is ordered that the defendant be, and he is hereby, prohibited and restrained, until the further order of this Court, from receiving from the [money now in hands belonging to the said defendant *or* debts, *as the case may be, describing them*] and that the said be and hereby prohibited and restrained, until the further order of this Court, from making payment of the said [money, *&c.*], or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 165.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To Defendant and

to

Manager of Company.

It is ordered that , the defendant, be and hereby prohibited and restrained, until the further order of the Court, from making any transfer of shares being in the aforesaid Company, or from receiving payment of any dividends thereof, and you Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer, or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 166.

TEMPORARY INJUNCTIONS.

Section 492 of the Code of Civil Procedure.

Upon motion made unto this Court by Pleader of (*or* Counsel for) the plaintiff *A. B.*, and upon reading the petition of the said plaintiff in this matter filed (this day) [*or* the plaint filed in this cause on the day of , *or* the written statement of the said plaintiff filed on the day of] and upon hearing the evidence of and in support thereof, [*if after notice and defendant not appearing, add*, and also the evidence of as to service of notice of this motion upon the defendant *C.D.*] This Court doth order that an injunction be awarded to restrain the

defendant *C. D.*, his servants, workmen and agents from pulling down, or suffering to be pulled down the house in the plaint in the said suit of the plaintiff mentioned [*or* in the written statement *or* petition of the plaintiff and evidence at the hearing of this motion mentioned] being No. 9, Oilmongers Street, Hindúpur, in the Taluq of and from selling the materials whereof the said house is composed, until the hearing of this cause or until the further order of this Court.

Dated this day of 187 .

Civil Judge.

[*Where the injunction is sought to restrain the negotiation of a bill, note or security, the ordering part of the order may run thus :—*] to restrain the defendants and from parting with out of the custody of them or any of them, or endorsing, assigning or negotiating the promissory note in question, dated on or about the *&c.*, mentioned in the plaintiff's plaint [*or* petition] and the evidence heard at this motion, until the hearing of this cause, or until the further order of this Court.

[*In copyright cases*] to restrain the defendant, *C. D.*, his servants, agents, or workmen from printing, publishing, or vending a book, called , or any part thereof, until the, *&c.*

[*Where part only of a book is to be restrained*] to restrain the defendant, *C. D.*, his servants, agents, or workmen, from printing, publishing, selling, or otherwise disposing of such parts of the book in the plaint [*or* petition and evidence, *&c.*,] mentioned to have been published by the defendant as hereinafter specified, namely, that part of the said book which is entitled and also that part which is entitled (*or* which is contained in p. to p. both inclusive) until the *&c.*

[*In patent cases*] to restrain the defendant, *C. D.*, his agents, servants and workmen, from making or vending any perforated bricks (*or, as the case may be*) upon the principle of the inventions in the plaintiff's plaint [*or* petition, *&c.*, *or* written statement, *&c.*,] mentioned, belonging to the plaintiffs, or either of them, during the remainder of the respective terms of the patents in the plaintiff's plaint (*or, as the case may be*) mentioned, and from counterfeiting, imitating or resembling the same inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, &c.

[*In cases of trade-marks*] to restrain the defendant, *C. D.*, his servants, agents or workmen, from selling, or exposing for sale, or procuring to be sold, any composition or blacking (*or, as the case may be*) described as or purporting to be blacking manufactured by the plaintiff, *A. B.*, in bottles having affixed thereto such labels as in the plaintiff's plaint [*or* petition, *&c.*] mentioned, or any other labels so contrived or expressed as, by colorable imitation or otherwise, to represent the composition or blacking sold by the defendant to be the same as the composition or blacking manufactured and sold by the plaintiff, *A. B.*, and from using trade-cards so contrived or expressed as to represent that any composition or blacking sold or proposed to be sold by the defendant is the same as the composition or blacking manufactured or sold by the plaintiff, *A. B.*, until the, &c.

[*To restrain a partner from in any way, interfering in the business*] to restrain the defendant, *C. D.*, his agents and servants, from entering into any contract, and from accepting, drawing, endorsing or negotiating any bill of exchange, note or written security, in the name of the partnership firm of *B. & D.*, and from contracting any debt, buying and selling any goods, and from making or entering into any verbal or written promise, agreement or undertaking, and from doing or causing to be done, any act, in the name or on the credit of the said partnership firm of *B. & D.*, or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sum of money, or for the performance of any contract, promise or undertaking, until the, &c.

No. 167.

NOTICE OF APPLICATION FOR INJUNCTION.

Section 494 of the Code of Civil Procedure.

IN THE COURT OF AT

A. B. of

against

C. D. of

Take notice that I, *A. B.*, intend to apply at the sitting of the Court at aforesaid, on the day of for an injunction to restrain *C. D.* from further prosecuting a suit which he has commenced against me in to recover damages for the breach of the contract for the specific performance of which this suit was commenced [*or* to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding up of which the suit was commenced, *or* from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this suit is commenced to enforce, *or, as the case may be*].

Dated this day of 18 .

A. B.

To *C.D.*

[*N. B.—Where the injunction is to be applied for against a party whose name and address does not appear upon any proceeding already filed in the suit, it must be stated in full to enable the proper officer to serve the notice.*]

No. 168.

APPOINTMENT OF A RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

WHEREAS has been attached in execution of a decree passed in the above suit on the day of 18 , in favour of : you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Receiver of the said property under section 503 of the Code of Civil Procedure, with full powers under the provisions of that section.

YOU are required to render a due and proper account of your receipts and disbursements in respect of the said property on . You will be entitled to remuneration at the rate of per cent. upon your receipts under the authority of this appointment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of

A. B. of
against
C. D. of

KNOW all men by these presents, that we, *A. B.* of, &c., and *C. D.* of, &c., and *E. F.* of, &c., are jointly and severally bound to *G. H.*, Registrar of the Court of in Rs. , to be paid to the said *G. H.* or his attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.

Dated this day of 18 .

And whereas a plaint has been filed in this Court by *A. B.* against *C. D.* for the purpose of (*here insert object of suit*).

And whereas the said *A. B.* has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immoveable property, and to get in the outstanding moveable property of *C. D.*, the testator in the said plaint named.

Now the condition of this obligation is such, that if the above-bounden *A. B.* shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immoveable property, and in respect of the moveable property of the said *C. D.* [*or, as may be*] at such periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

A. B.
C. D.

Signed and delivered by the above-bounden in the presence of

NOTE.—*If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.*

No. 170.

ORDER OF REFERENCE TO ARBITRATION UNDER AGREEMENT OF PARTIES.

Section 508 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS the above-mentioned plaintiff and defendant have agreed to refer the matters in difference between them in the above suit to your arbitration and award, you are hereby appointed accordingly to determine all the said matters in difference between the parties, and with power, by consent of the parties, to determine which party shall pay the costs of this reference.

You are required to deliver your award in writing to this Court on or before the day of 18 , or such other day as this Court may further fix.

Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on our application, and you are empowered to administer to such witnesses oath or affirmation.

A sum of Rs. , being your fee in the above suit, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 171.

ORDER OF REFERENCE TO ARBITRATION BY COURT, WITH CONSENT.

Section 508 of the Code of Civil Procedure.

(*Title.*)

UPON reading a petition of the plaintiff, filed this day, and on the consent of for the defendant, and upon hearing for the plaintiff and for the defendant, it is ordered, by and with the consent of all the parties, that all matters in difference in this suit, including all dealings and transactions between all parties, be referred to the final determination of , who is to make his award in writing and submit the same to this Court, together with all proceedings, depositions, and exhibits in this suit, within one month from the date hereof. And it is ordered further, by and with the like consent, that the said arbitrator is to be at liberty to examine the parties and their witnesses upon oath or affirmation, which he is empowered to administer, and that the said arbitrator shall have all such powers or authorities as are vested in arbitrators under the Code of Civil Procedure, including therein power to call for all books of account that he may consider necessary. And it is further ordered, by and with the like consent, that the costs of this suit, together with the costs of reference to arbitration, up to and including the award of the said arbitrator, and the enforcement thereof, do abide the result of the finding of the said arbitrator. And it is further ordered, by and with the like consent, that the said arbitrator be at liberty to appoint a competent accountant to assist him in the investigation of the several matters referred to him as aforesaid, and that the remuneration of such accountant and other charges attending thereto be in the discretion of the said arbitrator.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 172.

SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT.

Section 532 of the Code of Civil Procedure.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.
Defendant.

To [*Here enter the defendant's name, description and address.*]

Whereas [*here enter the plaintiff's name, description and address*] has instituted a suit in this Court against you under Chapter XXXIX of the Code of Civil Procedure for Rs. principal and interest [*or* Rs. balance of principal and interest] due to him as the payee [*or* indorsee] of a bill of exchange [*or* hundí *or* promissory note], of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs. [*here state the sum claimed*] and the sum of Rs. for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[*Here copy the bill of exchange, hundí or promissory note, and all endorsements upon it.*]

No. 173.

MEMORANDUM OF APPEAL.

Section 540 of the Code of Civil Procedure.

MEMORANDUM OF APPEAL.

(*Name, &c., as in Register.*) Plaintiff—Appellant.
(*Name, &c., as in Register.*) Defendant—Respondent.

[*Name of Appellant*] [plaintiff *or* defendant] above-named appeals to the High Court at [*or* District Court at , *as the case may be*] against the decree of in the above suit, dated the day of , for the following reasons, namely [*here state the grounds of objection*].

No. 174.

REGISTER OF APPEALS.

Section 550 of the Code of Civil Procedure.

COURT (*OR* HIGH COURT) AT

REGISTER OF APPEALS FROM DECREES in the year 18 .

DECREE APPEALED FROM.							APPEARANCE.			JUDGMENT.			
Date of Memorandum.	No. of appeal	APPELLANT.			RESPONDENT.			Amount or Value.	Particulars.	No. of Original Suit.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.								

No. 175.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

Section 553 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

APPEAL from the of the Court of dated the day of 18 .

Respondent.

To

Take notice that an appeal from the decree of in this case has been presented by and registered in this Court, and that the day of 18 has been fixed by this Court for the hearing of this appeal.

IF no appearance is made on your behalf by yourself, your pleader, or by some one by law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your absence.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

NOTE.—If a stay of execution has been ordered, intimation should be given of the fact on this notice.]

No. 176.

DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

Appeal from the of the Court of dated the day of 18 .

Memorandum of Appeal.

, *Plaintiff*.
, *Defendant*.

Plaintiff [*or* defendant] above-named appeals to the Court at against the decree of in the above suit, dated the day of 18 , for the following reasons, namely;

[*here state the reasons*]

This appeal coming on for hearing on the day of 18 , before , in the presence of for the Appellant, and of for the Respondent, it is ordered—

[*here state the relief granted*]

The costs of this appeal, amounting to , are to be paid by
The costs of the original suit are to be paid by

GIVEN under my hand, this day of 18 .

Judge.

No. 177.

REGISTER OF APPEALS FROM APPELLATE DECREES.

Section 587 of the Code of Civil Procedure.

HIGH COURT AT

REGISTER OF APPEALS FROM APPELLATE DECREES.

No. of Appeal.	Appellant.			Respondent.			Decree Appealed from.				Appearance.			Judgment.			
	Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	No. of Original suit and of Appeal.	Particulars.	Amount or Value.	Of what Court.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.	Date of Memorandum.

No. 178.

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

Section 626 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Plaintiff*, v. , *Defendant*.

To

TAKE notice that has applied to this Court for a review of its judgment passed on the day of 18 in the above case. The day of 18 is fixed for you to show cause why the Court should not grant a review of its judgment in this case.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 179.

NOTICE OF CHANGE OF PLEADER.

IN THE COURT OF AT

A. B. of
against
C. D. of

TO THE REGISTRAR OF THE COURT.

TAKE notice that I, *A. B.* [*or C. D.*], have hitherto employed as my pleader *G. H.* of in the above-mentioned cause, but that I have ceased to employ him, and that my present pleader is *J. K.* of

A. B. [*or C. D.*]

No. 180.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE, OR ORDER OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [*place of office*] from *ten* till *four*, except on [*here insert the day on which the office will be closed*], when the office will be closed at *one*.

WHITLEY STOKES,
Secretary to the Govt. of India.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information :—

Act No. VII of 1877.

An Act 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 school-houses, 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."

Amendment of Act of 1871, ss. 12, 13 and 14.

2. In Section 12 of the said Act, for the word "assignment" in each of the places where it occurs, the word "allotment" shall be substituted, and for the word "re-allotted" the word "re-assigned" shall be substituted.

And in section 13 of the said Act, for the word "assignment" the word "allotment" shall be substituted,

And in Section 14 of the same Act, for the word "amount," in each of the places where it occurs, the word "allotment" shall be substituted.

WHITLEY STOKES,

Secy. to the Govt. of India.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information:—

ACT No. VIII OF 1877.

An Act 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 to the provinces under the government of the Lieutenant-Governor of the North-Western Provinces; but nothing herein contained applies to persons earning their livelihood solely by agriculture.

Commencement.

And it shall come into force at once.

"Collector" defined.

2. In this Act "Collector" means the Chief Officer in charge of the revenue-administration of a District.

Annual licenses to be taken out.

3. 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 to which he belongs.

Officer to grant license.

4. 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 his trade or dealing in more than one district in the North-Western Provinces, 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.

5. 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 his 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.

6. 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 day of the granting thereof.

Renewal of license.

7. 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.

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 to be 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 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.

9. The Collector shall from time to time determine under which of the classes 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 1877 within thirty days of such publication in that year and within thirty days next after the first day of January in each succeeding year.

Petition of objector.

10. Any person mentioned in such list and objecting to the class 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 altogether removed from the list.

Hearing of petition. Appeal from order on petition.

11. 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:

Provided 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, and the fee, if any, paid by him shall be returned.

There shall be no appeal from an order under this section.

Power to remit fee.

12. 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.

Persons carrying on several trades.

13. A person or firm carrying on several trades or businesses and 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.

Penalty for carrying on business without a license.

14. 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 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 and all fees payable under this Act shall be recoverable as if they were arrears of land-revenue.

License to be produced on demand.

15. 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 and managers chargeable.

16. 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.

Power to retain assessment paid by trustee, &c.

17. 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 Court and person so charged may, from time to time, out of the money coming to its or his 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.

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.

18. The Collector 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 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, and the Collector has reason to doubt their accuracy, he may at any time cause a return showing the names, numbers, and classes aforesaid to be prepared in such manner as may be prescribed by the Local Government.

Notice to Municipalities.

19. When the return mentioned in section 18 has been furnished or prepared, notice shall be served on the Municipality, calling on it to pay to the Collector 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.

20. All taxes raised and penalties recovered under this Act shall be paid to the credit of the Local Government, or as such Government from time to time directs.

Powers of Collector under Act may be exercised by other officers.

21. 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.

22. Every person shall be legally bound to furnish information to any officer or person exercising any of the powers of a Collector under this Act when required by him to do so.

Obligation to furnish information to Collector.

23. 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 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 providing in any case or class of cases for serving notices on persons charged under this Act, 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	Rs. 16.
Professional money-lenders ...	
Companies registered under the Indian Companies Act, 1866 ...	
Owners of cotton-screws ...	
Persons keeping shops for the sale of European goods	
Hotel-keepers	
Wholesale-dealers	
Dealers in precious stones ...	

CLASS II.

Cloth-sellers	Rs. 8.
Metal-vessel-sellers	
Fuel-sellers (talwálas)	
Chaudhrís	
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 artisans	

CLASS III.

Persons carrying on any trades or dealings not above specified ...	Rs. 2.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information:—

ACT NO. IX OF 1877.

An Act 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.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th March 1877, and is hereby promulgated for General information:—

ACT NO. X OF 1877.

THE CODE OF CIVIL PROCEDURE.

CONTENTS.

PREAMBLE.

PRELIMINARY.

SECTIONS.

1. Short title.
Commencement.
Local extent.
2. Interpretation-clause.
3. Enactments repealed.
References in previous Acts.
Saving of procedure in suits instituted before 1st October 1877.
4. Saving of certain Acts affecting Oudh, Panjáb, Central Provinces and Burma.
5. Sections extending to Mufassal Small Cause Courts.

SECTIONS.

6. Saving of jurisdiction and procedure—
(*a*) of Military Courts of Request;
(*b*) of officers appointed to try small suits in Bombay;
(*c*) of village Munsifs and village Panchávats in Madras;
(*d*) of Recorder of Rangoon sitting as an Insolvent Court.
7. Saving of certain Bombay laws.
8. Presidency Small Cause Courts.
9. Division of Code.

PART I.

OF SUITS IN GENERAL.

CHAPTER I.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

10. No person exempt from jurisdiction by reason of descent or place of birth.
11. Courts to try all civil suits unless specially barred.
12. Pending suits.
13. *Res judicata.*
14. When foreign judgment no bar to suit in British India.

CHAPTER II.

OF THE PLACE OF SUING.

15. Court in which suit to be instituted.
16. Suits to be instituted where subject-matter situate.
17. Suits to be instituted where defendants reside or cause of action arose.
18. Suits for compensation for wrongs to person or moveables.
19. Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.
Suits for immoveable property situate in different districts.
20. Power to stay proceedings where all defendants do not reside within jurisdiction.
Application when to be made.
21. Remission of Court-fee where suit instituted in another Court.
22. Procedure where Courts in which suit may be instituted are subordinate to the same Appellate Court.
23. Procedure where they are not so subordinate.
24. Procedure where they are subordinate to different High Courts.
25. Transfer of suits.

CHAPTER III.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

26. Persons who may be joined as plaintiffs.
27. Court may substitute or add plaintiff for or to plaintiff suing.

SECTIONS.

28. Persons who may be joined as defendants.
29. Joinder of parties liable on same contract.
30. One party may sue or defend on behalf of all in same interest.
31. Suit not to fail by reason of misjóinder.
32. Court may dismiss or add parties.
No one to be added as plaintiff or as next friend without his consent.
Parties to suits instituted or defended under section 30.
Defendants added to be served.
Conduct of suit.
33. Where defendant added, plaintiff to amend.
34. Time for taking objections as to non-joinder or misjoinder of parties.
35. Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.
Authority to be in writing signed and filed.

Recognized Agents and Pleaders.

36. Appearances, &c., may be in person, by recognized agent or by pleader.
37. Recognized agents.
Persons holding powers-of-attorney from parties out of jurisdiction.
Certificated mukhtárs.
Persons carrying on trade or business for parties out of jurisdiction.
Recognized agents in Panjáb, Oudh and Central Provinces.
38. Service of process on recognized agent.
39. Appointment of pleader.
40. Service of process on pleader.
41. Agent to receive process.
His appointment to be in writing and to be filed in Court.

CHAPTER IV.

OF THE FRAME OF THE SUIT.

42. Suit how to be framed.
43. Suit to include the whole claim.
Relinquishment of part of claim.
Omission to sue for one of several remedies.
44. Only certain claims to be joined with suit for recovery of land.
Claims by or against executor, administrator, or heir.
45. Plaintiff may join several causes of action.
Court may order separation.
46. Defendant may apply to confine suit.
47. Court on hearing application may exclude some causes and order amendment.

CHAPTER V.

OF THE INSTITUTION OF SUITS.

48. Suits to be commenced by plaint.
49. Language of plaint.
50. Particulars to be contained in plaint.
In money suits.
Where plaintiff sues as a representative.
Defendant's interest and liability to be shown.
Grounds of exemption from limitation-law.

SECTIONS.

51. Plaint to be subscribed and verified.
52. Contents of verification.
Verification to be signed and attested.
53. When the plaint may be rejected, returned for amendment, or amended.
Proviso.
Attestation of amendment.
54. When the plaint shall be rejected.
55. Procedure on rejecting a plaint.
56. When rejection of plaint does not preclude presentation of fresh plaint.
57. When the plaint shall be returned to be presented to the proper Court.
Procedure on returning plaint.
58. Procedure on admitting plaint.
Concise statements.
Register of suits.
59. Production of document on which plaintiff sues.
Delivery of document or copy.
List of other documents.
60. Statement in case of documents not in his possession or power.
61. Suits on lost negotiable instruments.
62. Production of shop-book.
Original entry to be marked and returned.
63. Inadmissibility of document not produced when plaint filed.

CHAPTER VI.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

64. Summons.
65. Copy or statement annexed to summons.
66. Court may order defendant or plaintiff to appear in person.
67. No party to be ordered to appear in person unless resident within 50 or, where there is a railway, 200 miles.
68. Summons to be either to settle issues or for final disposal.
69. Fixing day for appearance of defendant.
70. Summons to order defendant to produce documents required by plaintiff or relied on by defendant.
71. On issue of summons or final disposal, parties to be directed to produce their witnesses.

Service of Summons.

72. Delivery of summons for service.
73. Mode of service.
74. Service on several defendants.
75. Service to be on defendant in person, when practicable, or on his agent.
76. Service on agent by whom defendant carries on business.
77. Service on agent in charge, in suits for immoveable property.

SECTIONS.

78. When service may be on male member of defendant's family.
79. Person served to sign acknowledgment.
80. Procedure when defendant refuses to accept service,
or cannot be found.
81. Endorsement of time and manner of service.
82. Examination of serving officer.
Substituted service.
83. Effect of substituted service.
84. When service is substituted, time for appearance to be fixed.
85. Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.
86. Service within Presidency-towns and Rangoon of process issued by Mufassal Courts.
87. Service on defendant in jail.
88. Procedure if jail be in a different district.
89. Service when defendant resides out of British India and has no agent to accept service.
90. Service through British Resident or agent of Government.
91. Substitution of letter for summons.
92. Mode of sending such letter.

Service of Process.

93. Process to be served at expense of party issuing it.
Costs of service.
94. Notices and orders in writing how served.

Postage.

95. Postage.

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

96. Parties to appear on day fixed in summons for defendant to appear and answer.
97. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing it.
Proviso.
98. If neither party appear, suit to be dismissed.
99. In such case plaintiff may bring fresh suit; or Court may restore the suit to its file.
100. Procedure if only plaintiff appear
when summons was duly served,
when summons not duly served,
when summons served, but not in due time.
101. Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.
102. Procedure where defendant only appears.
Decree against plaintiff by default bars fresh suit.

SECTIONS.

103. Procedure where defendant residing out of British India does not appear.
104. Procedure in case of non-attendance of one or more of several plaintiffs.
105. Procedure in case of non-attendance of one or more of several defendants.
106. Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.
107. Court to receive written declaration in support of cause shown for failure to appear.
108. Setting aside decree *ex parte* against defendant.
109. No decree to be set aside, without notice to opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

110. Written statements.
111. Particulars of set-off to be given in written statement.
Enquiry.
Effect of set-off.
Relinquishment of portion of claim for purpose of set-off.
112. No written statement to be received after first hearing unless called for by Court.
Court may at any time call for written statement.
113. Procedure when party fails to present written statement called for by Court.
114. Frame of written statements.
115. Written statements to be subscribed and verified.
116. Rejection of argumentative, prolix or irrelevant written statements.
Attestation of amendments.
Effect of rejection.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. Ascertainment from each party whether allegations in written statements are admitted or denied.
118. Oral examination of party or companion of himself or his pleader.
119. Substance of examination to be written.
120. Consequence of refusal or inability of pleader to answer.

CHAPTER X.

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

121. Power to deliver interrogatories.
122. Service of interrogatories.
123. Inquiry into propriety of exhibiting interrogatories.
124. Service of interrogatories on officer of corporation or company.
125. Power to strike out interrogatories as irrelevant, &c.
126. Time for filing affidavit in answer.
127. Procedure where a party omits to answer sufficiently.

SECTIONS.

128. Power to demand admission of genuineness of documents.
129. Application for order for discovery of document.
Affidavit in answer to such order.
130. Power to order production of documents during suit.
131. Notice to produce for inspection documents referred to in plaint, &c.
Consequence of non-compliance with such notice.
132. Party receiving such notice to deliver notice when and where inspection may be had.
133. Application for order of inspection.
134. Application to be founded on affidavit.
135. Power to order issue or question on which right to discovery depends to be first determined.
136. Consequences of failure to answer or give inspection.
137. Court may send for papers from its own records or from other Courts.
138. Documentary evidence to be in readiness at first hearing.
139. Effect of non-production of documents.
140. Documents to be received by Court.
Rejection of irrelevant or inadmissible documents.
141. No documents to be placed on record unless proved.
Proved documents to be marked and filed.
Entries in shop-books.
142. Rejected documents to be marked,
and returned, unless detained by Court.
143. Court may order any document to be impounded.
144. After lapse of time for appeal, document admitted in evidence may be returned.
When document may be returned before time limited.
Document not be returned in certain cases.
Receipt to be given for returned document.
145. Provisions as to documents applied to material objects.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

146. Framing of issues.
147. Allegations from which issues may be framed.
148. Court may examine witnesses or documents before framing issues.
149. Power to amend, add and strike out issues.
150. Questions of fact or law may by agreement be stated in the form of an issue.
151. Court if satisfied that the agreement was executed in good faith may give judgment.

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

152. If parties are not at issue on any question of law or fact.
153. If one of several defendants be not at issue with the plaintiff.
154. If parties are at issue on questions of law or fact.
Court may determine issue and pronounce judgment.

SECTIONS.
155. If either party fails to produce his evidence, Court may pronounce judgment.
Procedure where Court cannot pronounce judgment at first hearing.

CHAPTER XIII.

OF ADJOURNMENTS.

156. Court may grant time, or adjourn hearing.
Costs of adjournment.
157. Procedure if parties fail to appear on day fixed.
158. Court may proceed notwithstanding either party fails to produce his evidence.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. Summons to attend to give evidence or produce documents.
160. Expenses of witnesses to be paid into Court on applying for summons.
Scale of expenses.
161. Tender of expenses to witness.
162. Procedure where insufficient sum paid in.
Expenses if witness detained more than one day.
163. Time, place, and purpose of attendance to be specified in summons.
164. Summons to produce document.
165. Power to require persons present in Court to give evidence.
166. Summons how served.
167. Time for serving summons.
168. Attachment of property of absconding witness.
169. If witness appears, attachment may be withdrawn.
170. Procedure if witness fails to appear.
171. Court may of its own accord summon as witnesses strangers to suit.
172. Persons summoned to give evidence must attend.
173. When they may depart.
174. Consequences of non-attendance.
Consequences of refusal to give evidence or produce documents.
175. Procedure when witness absconds.
176. Person summoned to attend in person if so required.
177. Consequence of refusal of party to give evidence when called on by the Court.
178. Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. Statement and production of evidence by party having right to begin.
Rules as to right to begin.
180. Statement and production of evidence by other party.
Reply by party beginning.
181. Witnesses to be examined in open Court.
SECTIONS.
182. How evidence shall be taken in appealable cases.
183. When witness may require his deposition to be interpreted.
184. Memorandum when evidence is not taken down by Judge.
185. When evidence may be taken in English.
186. Any particular question and answer may be taken down.
187. Questions objected to.
188. Remarks on demeanour of witnesses.
189. Memorandum of evidence in unappealable cases.
190. Judge unable to make such memorandum to record reason of his inability.
191. Power to deal with evidence taken down by Judge removed before conclusion of suit.
192. Power to examine witness immediately.
193. Court may recall and examine witness.

CHAPTER XVI.

OF AFFIDAVITS.

194. Power to order any point to be proved by affidavit.
195. When evidence may be given by affidavit.
196. Matters to which affidavits shall be confined.
197. Oath of declarant by whom to be administered.

CHAPTER XVII.

OF JUDGMENT AND DECREE.

198. Judgment when pronounced.
199. Power to pronounce judgment written by Judge's predecessor.
200. Language of judgment.
201. Translation of judgment.
202. Judgment to be dated and signed.
203. Judgments of Small Cause Courts.
Judgments of other Courts.
204. Court to state its decision on each issue.
Exception.
205. Date of decree.
206. Contents of decree.
Power to amend decree.
207. Decree for recovery of portion of immoveable property.
208. Decree for delivery of moveable property.
209. In suits for money, decree may order certain interest to be paid on principal sum adjudged.
210. Payment by instalments.
When Court may order payment by instalments.
211. In suits for land, Court may decree payment of mesne profits with interest.
212. Court may determine amount of mesne profits prior to passing decree, or may reserve enquiry.
213. Administration-suit.
214. Suit to enforce right of pre-emption.
215. Suit for dissolution of partnership.
216. If set-off be allowed.
Effect of decree.
217. Certified copies of decree and judgment to be furnished.

CHAPTER XVIII.

OF COSTS.

SECTIONS.
218. Costs of applications.
219. Judgment to direct by whom costs are to be paid.
220. Power of Court as to costs.
221. Costs may be set-off against sum admitted or found to be due.
Saving of Pleader's lien.
222. Interest on costs.
Payment of costs out of subject-matter.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.
223. Court by which decree may be executed.
224. Procedure when Court desires that its own decree shall be executed by another Court.
225. Court receiving copies of decree, &c., to file same without proof.
226. Execution of decree or order by Court to which it is sent.
227. Execution by High Court of decree transmitted by other Court.
228. Appeal from orders for execution of decrees of other Courts.
229. Decrees of Courts established by Government of India in Native States.
B.—Of Application for Execution.
230. Application for execution.
231. Application by joint decree-holder.
232. Application by transferee of decree.
233. Transferee to hold subject to equities enforceable against original holder.
234. If judgment-debtor die before execution, application may be made against his representative.
235. Contents of application for execution of decree.
236. Application for attachment of immoveable property to be accompanied with inventory.
237. Application for attachment of moveable property to be accompanied with inventory.
238. When application must be accompanied by extract from Collector's register.
C.—Of staying Execution.
239. When Court may stay execution.
240. Power to require security from, or impose conditions upon, judgment-debtor.
241. Liability of judgment-debtor discharged to be retaken.
242. Order of Court passing decree or of Appellate Court to be binding upon Court applied to.
243. Stay of execution pending suit between decree-holder and judgment-debtor.
D.—Questions for Court executing Decree.
244. Questions to be decided by Court executing decree.
E.—Of the mode of executing Decrees.
245. Procedure on receiving application for execution of decree.
Procedure on admitting application.
SECTIONS.
246. Cross-decrees.
247. Cross-claims under same decree.
248. Notice to show cause why decree should not be executed.
Proviso.
249. Procedure after issue of notice.
250. Warrant when to issue.
251. Date, signature, seal and delivery.
252. Decree against representative of deceased for money to be paid out of deceased's property.
253. Decree against surety.
254. Decree for money.
255. Decree for mesne profits or other matter, amount of which to be subsequently ascertained.
256. Power to direct immediate execution of decree for money not exceeding rupees 1,000.
257. Modes of paying money under decree.
258. Payment of money out of Court to decree-holder.
259. Decrees for specific moveables, or recovery of wives.
260. Decree for specific performance or restitution of conjugal rights.
261. Decree for execution of conveyances, or endorsement of negotiable instruments.
262. Form and effect of execution of conveyance by Court.
263. Decree for immoveable property.
264. Delivery of immoveable property when in occupancy of tenant.
265. Partition of estate or separation of share.
F.—Of Attachment of Property.
266. Property liable to attachment and sale in execution of decree.
267. Power to summon and examine persons as to property liable to be seized.
268. Attachment of debt, share and other property not in possession of judgment-debtor.
269. Attachment of moveable property in possession of defendant.
Power to make rules for maintenance of attached live-stock.
270. Attachment of negotiable instruments.
271. Seizure of property in house.
Seizure of property in zanánás.
272. Attachment of property deposited in Court or with Government officer.
Proviso.
273. Attachment of decree for money.
Attachment of other decrees.
Decree-holders to give information.
274. Attachment of immoveable property.
275. Order for withdrawal of attachment after satisfaction of decree.
276. Private alienation of property after attachment to be void.
277. Court may direct coin or currency-notes attached to be paid to party entitled.
278. Investigation of claims to and objections to attachment of attached property.
Postponement of sale.
279. Evidence to be adduced by claimant.
280. Release of property from attachment.
281. Disallowance of claim to release of property attached.
282. Continuance of attachment subject to claim of incumbrancer.

SECTIONS.
283. Saving of suits to establish right to attached property.
284. Power to order property attached to be sold and proceeds be paid to person entitled.
285. Property attached in execution of decrees of several Courts.

G.—Of Sale and Delivery of Property.

(a). General Rules.

286. Sales by whom conducted and how made.
287. Proclamation of sales by public auction. Rules to be made by High Court.
288. Indemnity of Judges, &c.
289. Mode of making proclamation.
290. Time of sale.
291. Power to adjourn sale. Stoppage of sale on tender of debt and costs, or on proof of payment.
292. Officers concerned in execution-sales not to bid for or buy property sold.
293. Defaulting purchaser answerable for loss by re-sale.
294. Decree-holder not to bid for or buy property without permission. If decree-holder purchase, amount of decree may be taken as payment.
295. Proceeds of execution sale to be divided rateably among decree-holders. Proviso where property is sold subject to mortgage.

(b). Rules as to Moveable Property.

296. Rules as to negotiable securities and shares in public companies.
297. Payment for moveable property sold.
298. Irregularity not to vitiate sale of moveable property, but any person injured may sue.
299. Delivery of moveable property belonging to defendant actually seized.
300. Delivery of moveable property to which judgment-debtor is entitled subject to lien.
301. Delivery of debts and of shares in public companies.
302. Transfer of negotiable instruments and shares.
303. Vesting order in case of other property.

(c). Rules as to Immoveable Property.

304. Sales of land by Court not inferior to a District Court.
305. Postponement of sale of land to enable defendant to raise amount of decree. Certificate to judgment-debtor.
306. Deposit by purchaser of immoveable property.
307. Time for payment in full.
308. Procedure in default of payment.
309. Notification on re-sale of immoveable property.
310. Co-sharer of a share of undivided estate sold in execution to have preference in bidding.
311. Sale of land not set aside on ground of irregularity unless in case of substantial injury.
312. Effect of objection being disallowed and of its being allowed.
313. Power to apply to set aside the sale.

SECTIONS.
314. Confirmation of sale.
315. If sale set aside, price to be returned to purchaser.
316. Certificate to purchaser of immoveable property. Certificate to state name of actual purchaser.
317. Benámí purchaser not recognized.
318. Delivery of immoveable property in occupancy of judgment-debtor.
319. Delivery of immoveable property in the occupancy of tenant.
320. Power to prescribe rules for transferring to Collector execution of decrees and sale of land. Power to prescribe rules as to transmission, execution and re-transmission of decrees.
321. Power of Collector as to sale of land in execution of decree.
322. Powers of Collector as to execution of certain money-decrees so transferred.
323. Procedure of Collector.
324. Sale by Collector.
325. Sale, &c., to be reported to Court by Collector. Application of balance.
326. When Court may authorize Collector to stay public sale of land.
327. Local rules as to sales of land in execution of decrees for money.

(H).—Of Resistance to Execution.

328. Procedure in case of obstruction to execution of decree.
329. Procedure in case of obstruction by judgment-debtor or at his instigation.
330. Procedure when obstruction continues.
331. Procedure in case of obstruction by claimant in good faith, other than judgment-debtor.
332. Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.
333. Orders passed under sections 331 and 332 to have force of decrees, and to be subject to appeal.
334. Resisting or obstructing purchasers in obtaining possession of immoveable property.
335. Obstruction by claimant other than defendant.

(I).—Of Arrest and Imprisonment.

336. Place of judgment-debtor's imprisonment. Arrest in houses. Proviso.
337. Warrant for arrest to direct judgment-debtor to be brought up.
338. Scales of subsistence allowances.
339. Judgment-debtor's subsistence-money.
340. Subsistence money to be added to amount of decree.
341. Release of judgment-debtor.
342. Imprisonment not to exceed six months. When not to exceed six weeks.
343. Endorsement on warrant.

CHAPTER XX.

OF INSOLVENT JUDGMENT-DEBTORS.

344. Power to apply to be declared an insolvent.

SECTIONS.
345. Contents of application.
346. Subscription and verification of application.
347. Service on decree-holder of copy of application and notice.
348. Power to serve other creditors.
349. Powers of Court as to applicant under arrest.
350. Procedure at hearing.
351. Declaration of insolvency and appointment of Receiver.
352. Creditors to prove their debts. Schedule to be framed.
353. Applications by creditors.
354. Effect of order appointing Receiver.
355. Receiver to give security and collect assets. Discharge of insolvent.
356. Duty of Receiver. His right to remuneration. Delivery of surplus.
357. Effect of discharge.
358. When Court may declare insolvent absolved from further liability.
359. Procedure in case of dishonest applicant.
360. Investment of other Courts with powers of District Courts. Transfer of cases.

PART II.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

361. No abatement by party's death, if cause of action survive.
362. Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.
363. Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.
364. Proceeding where no application made by representative of deceased plaintiff.
365. Proceeding in case of death of sole, or sole surviving, plaintiff.
366. Abatement where no application by representative of deceased plaintiff.
367. Procedure in case of dispute as to representative of deceased plaintiff.
368. Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.
369. Suit not abated by marriage of female party.
370. When plaintiff's bankruptcy or insolvency bars suit. Procedure when assignee fails to continue suit or give security.
371. Effect of abatement on parties' rights. Application to set aside abatement or dismissal.
372. Procedure in case of assignment pending the suit.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. Power to allow plaintiff to withdraw with liberty to bring fresh suit.

SECTIONS.
374. Limitation-law not affected by first suit.
375. Compromise of suits.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

376. Deposit by defendant of amount in satisfaction of claim.
377. Notice of deposit.
378. Interest on sum deposited not allowed to plaintiff after receipt of notice.
379. Procedure where plaintiff accepts deposit as satisfaction in part. Procedure where he accepts it as satisfaction in full.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

380. When security for costs may be required from plaintiff at any stage of suit.
381. Procedure where requisition is not complied with.
382. Residence out of British India.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

383. Cases in which Court may issue commission to examine witness.
384. Order for commission may be made either on application of parties or by Court of its own accord.
385. When witness resides within Court's jurisdiction.
386. When witness resides beyond Court's jurisdiction, but in British India. When witness is within local limits of ordinary original civil jurisdiction of a High Court.
387. When witness is not within British India.
388. Court to examine witness pursuant to commission.
389. Commission when executed to be returned to Court issuing it with depositions of witnesses.
390. When depositions may be read in evidence.
391. Provisions as to execution and return of commissions to apply to commissions issued by Foreign Courts.

B.—Commissions for Local Investigations.

392. Commission to make local investigations.
393. Procedure of Commissioner. Report and depositions to be evidence in suit. Commissioner may be examined in person.

C.—Commissions to examine Accounts.

394. Commission to examine or adjust accounts.
395. Court to give Commissioner necessary instructions. Proceedings of Commissioner receivable in evidence. Power to make further enquiry.

D.—Commission to make Partition.

396. Commission to make partition of non-revenue-paying immoveable property.

E.—General Provisions.

SECTIONS.

397. Expenses of commission to be paid into Court.
398. Commissioner may examine parties and witnesses and call for papers.
399. Attendance, examination and punishment of witnesses before Commissioner.
400. Procedure *ex parte* where parties do not appear.

PART III.
OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.
SUITS BY PAUPERS.

401. Suits may be brought *in formâ pauperis*.
402. What suits excepted.
403. Application to be in writing.
Contents of application.
404. Presentation of application.
405. Rejection of application.
406. Examination of applicant.
If presented by agent, Court may order applicant to be examined by commission.
407. Rejection of application.
408. Notice of day for receiving evidence of applicant's pauperism.
409. Procedure at hearing.
410. Procedure if application admitted.
411. Costs when pauper succeeds.
Recovery of court-fees.
412. Procedure when pauper fails.
413. Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.
414. Dispaupering.
415. Costs.

CHAPTER XXVII.
SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against Secretary of State in Council.
417. Persons authorized to act for Government.
418. Plaints in suits by Secretary of State in Council.
419. Agent of Government to receive process.
420. Appearance and answer by Secretary of State in Council.
421. Attendance of person able to answer questions relating to suit against Government.
422. Service on public officers.
423. Extension of time to enable officer to make reference to Government.
424. Notice previous to suing Secretary of State in Council or public officer.
425. Arrests in such suits.
426. Application where Government undertakes defence.
427. Procedure where no such application made. Defendant not liable to arrest before judgment.
428. Exemption of public officers from personal appearance.
429. Procedure where decree is against Government or a public officer.

CHAPTER XXVIII.
SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

SECTIONS.

430. When aliens may sue.
431. When a foreign State may sue.
432. Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.
433. Suits against Sovereign Princes, &c.
Sovereign Princes, &c., exempt from arrest.
When their property may be attached.
434. Execution in British India of decrees or Courts of Native States.

CHAPTER XXIX.
SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

435. Subscription and verification of plaint.
436. Service on Corporation or Company.

CHAPTER XXX.
SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437. Representation of beneficiaries in suits concerning property vested in trustees, &c.
438. Joinder of executors and administrators.
439. Husband of married executrix not to join.

CHAPTER XXXI.
SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

440. Minor must sue by next friend.
Costs.
441. Applications to be made by next friend or guardian *ad litem*.
442. Plaint filed without next friend to be taken off the file.
Costs.
443. Guardian *ad litem* to be appointed by the Court.
444. Order obtained without next friend or guardian may be discharged.
Costs.
445. Who may be next friend.
446. Removal of next friend.
447. Retirement of next friend.
Application for appointment of new next friend.
448. Stay of proceedings on death or removal of next friend.
449. Application for appointment of new next friend.
450. Course to be followed by minor plaintiff or applicant on coming of age.
451. Where he elects to proceed.
452. Where he elects to abandon.
453. Making and proving applications under sections 451, 452.
454. When minor co-plaintiff.
Costs.
455. When suit unreasonable or improper.
Costs.
456. Petition for appointment of guardian *ad litem*.

SECTIONS.

457. Who may be guardian *ad litem*.
458. Guardian neglecting his duty may be removed.
Costs.
459. On death or removal of guardian *pendente lite*, new guardian to be appointed.
460. When decree to be enforced against heir or representative.
461. Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.
462. Next friend or guardian *ad litem* not to compromise without leave of Court.
Compromise without leave voidable.
463. Application of sections 440 to 462 to persons of unsound mind.
464. Wards of Court.

CHAPTER XXXII.
SUITS BY AND AGAINST MILITARY MEN.

465. Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.
466. Person so authorized may act personally or appoint pleaders.
467. Service on person so authorized, or on his pleader, to be good service.
468. Service on officers and soldiers.
469. Execution of warrant of arrest in cantonments, &c.

CHAPTER XXXIII.
INTERPLEADER.

470. When interpleader-suit may be instituted.
471. Plaint in such suit.
472. Payment of thing claimed into Court.
473. Procedure at first hearing.
474. When agents and tenants may institute interpleader-suits.
475. Charge of plaintiff's costs.
476. Procedure where a defendant is suing stakeholder.
Costs.

PART IV.
PROVISIONAL REMEDIES.

CHAPTER XXXIV.
OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

477. When plaintiff may apply that security be taken.
478. Order to bring up defendant to show cause why he should not give security.
479. If defendant fail to show cause, Court may order him to make deposit or give security.
480. Procedure in case of application by surety to be discharged.
481. Procedure where defendant fails to give security or find fresh security.
482. Subsistence of defendant arrested.

B.—Attachment before Judgment.

483. Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.
Contents of application.

SECTIONS.

484. Court may call on defendant to furnish security or show cause.
485. Attachment if cause not shown or security not furnished.
Withdrawal of attachment.
486. Mode of making attachment.
487. Investigation of claims to property attached before judgment.
488. Removal of attachment when security furnished.
489. Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.
490. Property attached under this chapter, not to be re-attached in execution of decree.

C.—Compensation for improper Arrests or Attachments.

491. Compensation for obtaining arrest or attachment on insufficient grounds.
Proviso.

CHAPTER XXXV.
OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

492. Cases in which temporary injunction may be granted.
493. Injunction to restrain repetition or continuance of breach.
494. Before granting injunction, Court may direct notice to be given to opposite party.
495. Injunction to corporation binding on its members and officers.
496. Order for injunction may be discharged, varied or set aside.
497. Compensation to defendant for issue of injunction on insufficient grounds.
Proviso.

B.—Interlocutory Orders.

498. Power to order interim sale of perishable articles.
499. Power to make order for detention, &c., of subject-matter and to authorize entry, taking of samples and experiments.
500. Application for such orders to be after notice.
501. When party may be put in immediate possession of land, the subject of suit.
502. Deposit of money, &c., in Court.

CHAPTER XXXVI.
APPOINTMENT OF RECEIVERS.

503. Power of Court to appoint Receivers.
Receiver's liabilities.
504. When Collector may be appointed Receiver.
505. Courts empowered under this chapter.

PART V.
OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.
REFERENCE TO ARBITRATION.

506. Parties to suit may apply for order of reference.

SECTIONS.
507. Nomination of arbitrator.
When Court to nominate arbitrator.
508. Order of reference.
509. When reference is to two or more, order to provide for difference of opinion.
510. Death, incapacity, &c., of arbitrators or umpire.
511. Appointment of umpire by Court.
512. Powers of arbitrator or umpire appointed under sections 509, 510, 511.
513. Summoning witnesses.
Punishment for default, &c.
514. Extension of time for making award.
515. When umpire may arbitrate in lieu of arbitrators.
516. Award to be signed and filed.
517. Arbitrators or umpire may state special case.
518. Court may, on application, modify or correct award in certain cases.
519. Order as to costs of arbitration.
520. When award or matter referred to arbitration may be remitted.
521. Grounds for setting aside award.
522. Judgment to be according to award.
Decree to follow.
523. Agreement to refer to arbitration may be filed in Court.
Application to be numbered and registered.
Notice to show cause against filing it.
524. Provisions of this chapter applicable to proceedings under order of reference.
525. Filing award in matter referred to arbitration without intervention of Court.
Application to be numbered and registered.
Notice to parties to arbitration.
526. Filing and enforcement of such award.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Power to state case for Court's opinion.
528. When value of subject-matter must be stated.
529. Agreement to be filed and numbered as a suit.
530. Parties to be subject to Court's jurisdiction.
531. Hearing and disposal of the case.

CHAPTER XXXIX.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

532. Institution of summary suits upon bills of exchange, &c.
Payment into Court of sum mentioned in summons.
533. Defendant showing defence on merits to have leave to appear.
534. Power to set aside decree.
535. Power to order bill to be deposited with officer of Court.
536. Recovery of cost of noting non-acceptance of dishonoured bill.
537. Procedure in suits under this chapter.
538. Power to extend this chapter.

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

539. When suit relating to public charities may be brought.

PART VI.

OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

SECTIONS.
540. Appeal to lie from all original decrees, except when expressly prohibited.
541. Form of appeal.
Memorandum to be accompanied by copy of decree and judgment.
Memorandum of appeal.
542. Appellant confined to grounds set out.
543. Rejection of memorandum or grounds of objection.
544. One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

Of staying and executing Decrees under Appeal.

545. Execution of decree not stayed solely by reason of appeal.
Stay of execution of appealable decree before time for appealing has expired.
Security required before making order to stay execution.
546. Security in case of order for execution of decree appealed against.
547. No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

548. Registry of memorandum of appeal.
549. Appellate Court may require appellant to give security for costs.
When appellant resides out of British India.
550. Appellate Court to give notice to Court whose decree is appealed against.
Transmission of papers to Appellate Court.
Copies of exhibits in Court whose decree is appealed against.
551. Power to confirm decision of lower Court without sending it notice.
552. Day for hearing appeal.
553. Publication and service of notice of day for hearing appeal.
Appellate Court may itself cause notice to be served.
554. Contents of notice.

Procedure on Hearing.

555. Right to begin.
556. Dismissal of appeal for appellant's default.
Hearing appeal *ex parte*.
557. Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.
Proviso.
558. Re-admission of appeal dismissed for default.
559. Power to adjourn hearing, and direct persons appearing interested to be made respondents.
560. Re-hearing on application of respondent against whom *ex parte* decree is made.
561. Upon hearing respondent may object to decree as if he had preferred separate appeal.
Form of notice, and provisions applicable thereto.

SECTIONS.
562. Remand of case by Appellate Court.
563. When further evidence barred.
564. Limit to remand.
565. When evidence on record sufficient, Appellate Court shall determine case finally.
566. When Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.
567. Finding and evidence to be put on record.
Objections to finding.
Determination of appeal.
568. Production of additional evidence in Appellate Court.
569. Mode of taking additional evidence.
570. Points to be defined and recorded.

Of the Judgment in Appeal.

571. Judgment when and where pronounced.
572. Language of judgment.
573. Translation of judgment.
574. Contents of judgment.
Date and signature.
575. Decision when appeal is heard by two or more Judges.
576. Dissent to be recorded.
577. What judgment may direct.
578. No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

Of the Decree in Appeal.

579. Contents of decree.
Judge dissenting from judgment need not sign decree.
580. Copies of Judgment and decree to be furnished to parties.
581. Certified copy of decree to be sent to Court whose decree is appealed against.
582. Appellate Court to have same powers as Courts of original jurisdiction.
583. Execution of decree of Appellate Court.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECREES.

584. Second appeals to High Court.
Grounds of second appeal.
585. Second appeal only on grounds mentioned in section 584.
586. No second appeal in certain suits.
587. Provisions as to second appeals.

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

588. Orders appealable.
589. Court which shall hear appeals.
590. Procedure in appeals from orders.
591. No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

CHAPTER XLIV.

OF PAUPER APPEALS.

592. Who may appeal as pauper.
Procedure on application for admission of appeal.
593. Enquiry into pauperism.
Proviso.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

SECTIONS.
594. 'Decree' defined.
595. When appeals lie to Queen in Council.
596. Value of subject-matter.
597. Bar of certain appeals.
598. Application to Court whose decree is complained of.
599. Time within which application must be made.
600. Certificate as to value or fitness.
601. Effect of refusal of certificate.
602. Security and deposit required on grant of certificate.
603. Admission of appeal and procedure thereon.
604. Revocation of acceptance of security.
605. Power to order further security or payment.
606. Effect of failure to comply with order.
607. Refund of balance of deposit.
608. Powers of Court pending appeal.
609. Increase of security found inadequate.
610. Procedure to enforce orders of Queen in Council.
611. Appeal against order relating to execution.
612. Power to make rules.
Publication of rules.
613. Legalization of existing rules.
614. Recorder of Rangoon.
615. Construction of Bengal Regulation III of 1828, section 4, clause 5.
616. Saving of Her Majesty's pleasure, and of rules for conduct of business before Judicial Committee.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

SECTIONS.
617. Reference of question to High Court.
618. Court may pass decree contingent upon opinion of High Court.
619. Judgment of High Court to be transmitted, and case disposed of accordingly.
620. Costs of reference to High Court.
621. Power to alter, &c., decrees of Court making reference.
622. Power to call for record of cases decided by Small Cause Courts, or, on appeal, by subordinate Courts.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

623. Application for review of judgment.
624. To whom applications for review may be made.
625. Form of applications for review.
626. Application when rejected.
Application when granted.
Proviso.
627. Application for review in Court consisting of two or more Judges.
628. Application when rejected.

SECTIONS.
629. Order of Court final.
630. Registry of application granted, and order for re-hearing.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This part to apply only to certain High Courts.
632. Application of Code to High Courts.
633. High Court to record judgments according to its own rules.
634. Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.
635. Attorneys not to address Court except when authorized.
636. Process of High Courts may be served by attorneys in suit.
637. Non-judicial acts may be done by Registrar.
638. Sections not applying to High Court in original civil jurisdiction.
Code not to affect High Court in exercise of insolvent jurisdiction.
639. Power to frame forms.

PART X.

CHAPTER XLIX.

MISCELLANEOUS.

640. Exemption of certain women from personal appearance.
641. Local Government may exempt certain persons from personal appearance.
List of names of persons exempted to be kept in Subordinate Court.
Costs of commission rendered necessary by claiming privilege.
642. Persons exempt from arrest.
643. Procedure in case of certain offences relating to documents.
644. Use of forms in fourth schedule.
645. Language of subordinate Courts.
646. Power of Registrars of Small Cause Courts to state cases.
647. Miscellaneous proceedings.
Admission of affidavits as evidence.
648. Procedure when person to be arrested or property to be attached is outside the district.
649. Rules applicable to all civil process for sale or payment.
650. Application of rules as to witnesses.
651. Penalty for escaping from custody under Code.
652. Power to make subsidiary rules of procedure.

THE FIRST SCHEDULE.—*A.*—Statute repealed.
B.—Acts repealed.
C.—Regulation repealed.
THE SECOND SCHEDULE.—Chapters and sections extending to Mufassal Courts of Small Causes.
THE THIRD SCHEDULE.—Bombay enactments.
THE FOURTH SCHEDULE.—Forms.

An Act to Consolidate and amend the Laws relating to the Procedure of the Courts of Civil Judicature.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows:—

PRELIMINARY.

Short title. Commencement.

1. This Act may be cited as "The Code of Civil Procedure:" and it shall come into force on the first day of October 1877.

Local extent.

This section and section 3 extend to the whole of British India. The other sections extend to the whole of British India except the Scheduled Districts as defined in Act No. XIV of 1874.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context—

"chapter." "chapter" means a chapter of this Code:

"district." "District Court." "district" means the local limits of the jurisdiction of a principal civil Court of original jurisdiction (hereinafter called a 'District Court'), and includes the local limits of the ordinary original civil jurisdiction of a High Court: every Court of a grade inferior to that of a District Court and every Court of Small Causes shall, for the purposes of this Code, be deemed to be subordinate to the High Court and the District Court:

"pleader." "pleader" means every person entitled to appear and plead for another in Court, and includes an advocate, a vakíl and an attorney of a High Court:

"Government Pleader." "Government Pleader" includes also any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader.

"Collector." "Collector" means every officer performing the duties of a Collector of land-revenue:

"judgment." "judgment" means the statement given by the Judge as the grounds of the order or decree by which a suit or other judicial proceeding is determined:

"decree." "decree" means the formal order of the Court in which the result of the decision of the suit or other judicial proceeding is embodied. An order on appeal, remanding a suit for re-trial, is not within this definition:

"Judge." "Judge" means the presiding officer of a Court:

"judgment-debtor." "judgment-debtor" means any person against whom a decree or order has been made:

"decree-holder." "decree-holder" means any person in whose favour a decree or any order capable of execution has been made, and includes any person to whom such decree or order is transferred:

"written." "written" includes printed and lithographed, and "writing" includes print and lithography:

"signed." "signed" includes "marked" when the person making the mark is unable to write his name:

"foreign Court." "foreign Court" means a court situate beyond the limits of British India and not having authority in British India nor established by the Governor General in Council:

"foreign judgment." "foreign judgment" means the judgment of a foreign Court:

"public officer." "public officer" means a person falling under any of the following descriptions (namely):—

Every Judge;

Every covenanted servant of Her Majesty;

Every commissioned officer in the military or naval forces of Her Majesty while serving under Government;

Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty.

"Government." And in any part of British India in which this Code operates, "Government" includes the Government of India as well as the Local Government.

Enactments repealed.

3. The enactments specified in the first schedule hereto annexed are hereby repealed to the extent mentioned in the third column of the same schedule.

References in previous Acts.

But when in any Act, Regulation or Notification passed or issued prior to the day on which this Code comes into force, reference is made to Act VIII of 1859, Act XXIII of 1861, or the 'Code of Civil Procedure,' or to any other Act hereby repealed, such reference shall, so far as may be practicable, be read as applying to this Code or the corresponding part thereof;

Saving of procedure in suits instituted before 1st October 1877.

Nothing herein contained shall affect the procedure prior to decree in any suit instituted or appeal presented before this Code comes into force.

Saving of certain Acts affecting Oudh, Panjáb, Central Provinces and Burma.

4. Save as provided in the second paragraph of section 3, nothing herein contained shall be deemed to affect the following enactments (namely):—

The Central Provinces Courts Act, 1865:
The Panjáb Courts Act, 1865:
Act No. XXVII of 1867:
The Oudh Civil Courts Act, 1871:
The Panjáb Appeals Act, 1873:
The Burma Courts Act, 1875:
or any local law prescribing a special procedure for suits between landlord and tenant,
or any local law providing for the partition of immoveable property.

And where under any of the said Acts concurrent civil jurisdiction is given to the Commissioner and the Deputy Commissioner, the Local Government may declare which of such officers shall for the purposes of this Code be deemed to be the District Court.

Sections extending to Mufassal Small Cause Courts.

5. The chapters and sections of this Code specified in the second schedule hereto annexed extend (so far as they are applicable) to Courts of Small Causes constituted under Act No. XI of 1865. The other chapters and sections of this Code do not extend to such Courts. And nothing herein contained shall be deemed to enlarge the powers which such Courts now possess for the purposes of effecting attachments or executing decrees.

Saving of jurisdiction and procedure—

6. Nothing in this Code affects the jurisdiction or procedure—

(*a*) of Military Courts of Request;

(*a*) of Military Courts of Request;

(*b*) of officers appointed to try small suits in Bombay;

(*b*) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bázárs at cantonments and stations occupied by the troops of that Presidency; or

(*c*) of Village Munsifs and Village Panchávats in Madras

(*c*) of Village Munsifs or Village Panchávats under the provisions of the Madras Code;

(*d*) of Recorder of Rangoon sitting as an Insolvent Court.

(*d*) of the Recorder of Rangoon sitting as an Insolvent Court in Rangoon, Maulmain, Akyab or Bassein,

or shall operate to give any Court jurisdiction over suits of which the amount or value of the subject-matter exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. With respect to—

Saving of certain Bombay laws.

(*a*) the jurisdiction exercised by certain jágírdárs and other authorities invested with powers under the provisions of Bombay Regulation XIII of 1830 and Act XV of 1840 in the cases therein mentioned; and

(*b*) cases of the nature defined in the enactments specified in the third schedule hereto annexed,

the procedure in such cases and in the appeals to the Civil Courts allowed therein, shall be according to the rules laid down in this Code, except where those rules are inconsistent with any specific provisions contained in the enactments mentioned or referred to in this section.

8. Save as provided in sections 3, 25, 86, 223, 225, 386 and chapter XXXIX, this Code shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay.

Presidency Small Cause Courts.

But the Local Government may, by notification published in the official Gazette, extend to any such Court this Code or any part thereof, except so far as relates to appeals and reviews of judgment.

9. This Code is divided into ten Parts as follows:—

Division of Code.

The first Part:	Suits in General.
The second Part:	Incidental Proceedings.
The third Part:	Suits in particular Cases.
The fourth Part:	Provisional Remedies.
The fifth Part:	Special Proceedings.
The sixth Part:	Appeals.
The seventh Part:	Reference to and Revision by the High Court.
The eighth Part:	Review of Judgment.
The ninth Part:	Special Rules relating to the Chartered High Courts.
The tenth Part:	Certain Miscellaneous Matters.

PART I.

OF SUITS IN GENERAL.

CHAPTER I.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

No person exempt from jurisdiction by reason of descent or place of birth.

10. No person shall, by reason of his descent or place of birth, be in any civil proceeding exempted from the jurisdiction of any of the Courts.

Courts to try all civil suits unless specially barred.

11. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is barred by any enactment for the time being in force.

Explanation.—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

Pending suits.

12. Except where a suit has been stayed under section 20, the Court shall not try any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit for the same relief between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in British India having jurisdiction to grant such relief, or in any Court beyond the limits of British India established by the Governor General in Council and having like jurisdiction, or before Her Majesty in Council.

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

Res judicata.

13. No Court shall try any suit or issue, in which the matter directly and substantially in issue has been heard and finally decided by a Court of competent jurisdiction, in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title.

Explanation I.—The matter above referred to must in the former suit have been alleged by one party and either denied or confessed, expressly or impliedly, by the other.

Explanation II.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation III.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purpose of this section, be deemed to have been refused.

Explanation IV.—A decision is final within the meaning of this section when it is such as the Court making it could not alter (except on review) on the application of either party or reconsider of its own motion. A decision liable to appeal may be final within the meaning of this section until the appeal is made.

Explanation V.—Where persons litigate *bonâ fide* in respect of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purpose of this section, be deemed to claim under the persons so litigating.

Explanation VI.—Where a foreign judgment is relied on, the production of the judgment duly authenticated is presumptive evidence that the Court which made it had competent jurisdiction, unless the contrary appear on the record; but such presumption may be removed by proving the want of jurisdiction.

When foreign judgment no bar to suit in British India.

14. No foreign judgment shall operate as a bar to a suit in British India—

(*a*) if it has not been given on the merits of the case:

(*b*) if it appears on the face of the proceedings to be founded on an incorrect view of international law or of any law in force in British India:

(*c*) if it is in the opinion of the Court before which it is produced contrary to natural justice:

(*d*) if it has been obtained by fraud:

(*e*) if it sustains a claim founded on a breach of any law in force in British India.

CHAPTER II.

OF THE PLACE OF SUING.

Court in which suit to be instituted.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Suits to be instituted where subject-matter situate.

16. Subject to the pecuniary or other limitations prescribed by any law, suits

(*a*) for the recovery of immoveable property,

(*b*) for the partition of immoveable property,

(*c*) for the foreclosure or redemption of a mortgage of immoveable property,

(*d*) for the determination of any other right to or interest to or in immoveable property,

(*e*) for compensation for wrong to immoveable property,

(*f*) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that suits to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, when the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction he actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section 'property' means property situate in British India.

Suits to be instituted where defendants reside or cause of action arose.

17. Subject to the limitations aforesaid, all other suits shall be instituted in a Court within the local limits of whose jurisdiction—

(*a*) the cause of action arises, or

(*b*) all the defendants, at the time of the commencement of the suit, actually and voluntarily reside, or carry on business, or personally work for gain; or

(*c*) any of the defendants, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain: provided that either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain as aforesaid acquiesce in such institution.

Explanation I.—Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

Explanation II.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(*a*) A is a tradesman in Calcutta. B carries on business in Dehli. B, by his agent in Calcutta, buys goods of A, and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Dehli, where B carries on business.

(*b*.) A resides at Simla, B at Calcutta, and Cat Dehli. A, B and C being together at Benares, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Dehli, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot be maintained without the leave of the Court.

Suits for compensation for wrongs to person or moveables.

18. In suits for compensation for wrong done to person or moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain within the local limits of the jurisdiction of another Court, the plaintiff may at his option sue in either of the said Courts.

Illustrations.

(*a*) A, residing in Dehli, beats B in Calcutta. B may sue A either in Calcutta or in Dehli.

(*b*.) A, residing in Dehli, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Dehli.

(*c*.) A, travelling on the line of a Railway Company whose principal office is at Howrah, is upset and injured at Allahabad by negligence imputable to the Company. He may sue the Company either at Howrah or at Allahabad.

Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.

19. If the suit be to obtain relief respecting, or compensation for wrong to, immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be instituted in the Court within whose jurisdiction any portion of the property is situate; provided that, in respect of the value of the subject-matter of the suit, the entire claim be cognizable by such Court.

Suits for immoveable property situate in different districts.

If the immoveable property be situate within the limits of different districts, the suit may be instituted in any Court, otherwise competent to try it, within whose jurisdiction any portion of the property is situate.

Power to stay proceedings where all defendants do not reside within jurisdiction.

20. If a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction the defendant or all the defendants does not or do not actually and voluntarily reside, or carry on business, or personally work for gain, the defendant or any defendant may, after giving notice in writing to the other parties of his intention to apply to the Court to stay proceedings, apply to the Court accordingly;

and if the Court, after hearing such of the parties as desire to be heard, is satisfied that justice is more likely to be done by the suit being instituted in some other Court, it may stay proceedings either finally or till further order, and make such order as it thinks fit as to the costs already incurred by the parties or any of them.

In such case, if the plaintiff so requires, the Court shall return the plaint with an endorsement thereon of the order staying proceedings.

Application when to be made.

Every such application shall be made at the earliest possible opportunity, and in all cases before the issues are settled; and any defendant not so applying shall be deemed to have acquiesced in the institution of the suit.

21. Where the Court, under section 20, stays proceedings, and the plaintiff re-institutes his suit in another Court, the plaint shall not be chargeable with any court-fee; provided that the proper fee has been levied on the institution of the suit in the former Court, and that the plaint has been returned by such Court.

Remission of court-fee where suit instituted in another Court.

22. Where a suit may be instituted in more Courts than one, and such Courts are subordinate to the same appellate Court, any defendant, after giving notice in writing to the other parties of his intention to apply to such Court to transfer the suit to another Court, may apply accordingly; and the appellate Court, after hearing the other parties, if they desire to be heard, shall determine in which of the Courts having jurisdiction the suit shall proceed.

Procedure where Courts in which suit may be instituted are subordinate to the same appellate Court.

23. Where such Courts are subordinate to different appellate Courts, but are subordinate to the same High Court, any defendant, after giving notice in writing to the other parties of his intention to apply to the High Court to transfer the suit to another Court having jurisdiction, may apply accordingly. If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate. The High Court may, after considering the objections, if any, of the other parties, determine in which of the Courts having jurisdiction the suit shall proceed.

Procedure where they are not so subordinate.

24. Where such Courts are subordinate to different High Courts, any defendant may, after giving notice in writing to the other parties of his intention to apply to the High Court within whose jurisdiction the Court in which the suit is brought is situate, apply accordingly.

Procedure where they are subordinate to different High Courts.

If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate,

and such High Court shall, after considering the objections, if any, of the other parties, determine in which of the several Courts having jurisdiction the suit shall proceed.

25. The High Court or District Court may, on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, or of its own motion, without giving such notice, withdraw any suit whether pending in a Court of first instance or in a Court of appeal subordinate to such High Court or District Court, as the case may be, and try the suit itself, or transfer it for trial to any other such subordinate Court competent to try the same in respect of its nature and the amount or value of its subject-matter.

Transfer of suits.

For the purposes of this section, the Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

CHAPTER III.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

26. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the Court in disposing of the costs of the suit otherwise directs.

Persons who may be joined as plaintiffs.

27. Where a suit has been instituted in the name of the wrong person as plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may, if satisfied that the suit has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as the Court thinks just.

Court may substitute or add plaintiff for or to plaintiff suing.

28. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative, in respect of the same matter. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

Persons who may be joined as defendants.

29. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange, hundís and promissory notes.

Joinder of parties liable on same contract.

30. Where there are numerous parties having the same interest in one suit, one or more of such parties may, with the permission of the Court, sue or be sued, or may defend in such suit, on behalf of all parties so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such parties either by personal service or (if from the number of parties or any other cause such service is not reasonably practicable), then by public advertisement, as the Court in each case may direct.

One party may sue or defend on behalf of all in same interest.

31. No suit shall be defeated by reason of the misjoinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Suit not to fail by reason of misjoinder.

Nothing in this section shall be deemed to enable plaintiffs to join in respect of distinct causes of action.

32. The Court may, on or before the first hearing, upon the application of either party, and on such terms as the Court thinks just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out; and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

Court may dismiss or add parties.

No person shall be added as a plaintiff, or as the next friend of a plaintiff, without his own consent thereto.

No one to be added as plaintiff or as next friend without his consent.

Any person on whose behalf a suit is instituted or defended under section 30 may appiy to the Court to be made a party to such suit.

Parties to suits instituted or defended under section 30.

All parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned, and (subject to the provisions of the Indian Limitation Act, section 22) the proceedings as against them shall be deemed to have begun only on the service of such summons.

Defendants added to be served.

The Court may give the conduct of the suit to such plaintiff as it deems proper.

Conduct of suit.

33. Where a defendant is added, the plaint, if previously filed, shall, unless the Court direct otherwise, be amended in such manner as may be necessary, and an amended copy of the summons shall be served on the new defendant and the original defendants.

Where defendant added, plaintiff to amend.

34. All objections for want of parties, or for joinder of parties who have no interest in the suit, or for misjoinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the first hearing; and any such objection not so taken shall be deemed to have been waived by the defendant.

Time for taking objections as to non-joinder or misjoinder of parties.

35. When there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding under this Code: and in like manner when there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any such proceeding.

Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.

The authority shall be in writing, signed by the party giving it, and shall be filed in Court.

Authority to be in writing signed and filed.

Recognised Agents and Pleaders.

36. Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party to a suit or appeal in such Court, may, except when otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf:

Appearances, &c., may be in person, by recognized agent or by pleader.

Provided that any such appearance shall be made by the party in person if the Court so direct.

37. The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

Recognized agents.

(*a*) persons holding general powers-of-attorney from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, authorizing them to make and do such appearances, applications and acts on behalf of such parties;

Persons holding powers-of-attorney from parties out of jurisdiction.

(*b*) mukhtárs duly certificated under any law, for the time being in force and holding special powers-of-attorney authorizing them to do, on behalf of their principals, such acts as may legally be done by mukhtárs;

Certificated mukhtárs.

(*c*) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

Persons carrying on trade or business for parties out of jurisdiction.

Nothing in the former part of this section applies to the territories now administered respectively by the Lieutenant Governor of the Panjáb, and the Chief Commissioners of Oudh and the Central Provinces; but in those territories the recognized agents of parties by whom such appearances, applications and acts may be made and done shall be such persons as the Local Government may from time to time, by notification in the official Gazette, declare in this behalf.

Recognized agents in Panjáb, Oudh and Central Provinces.

38. Processes served on the recognized agent of a party to a suit or appeal shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

Service of process on recognized agent.

The provisions of this Code for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

39. The appointment of a pleader to make or do any appearance, application or act as aforesaid shall be in writing, and such appointment shall be filed in court.

Appointment of pleader.

When so filed, it shall be considered to be in force until revoked with the leave of the Court, by a writing signed by the client and filed in Court, or until the client or the pleader dies, or all proceedings in the suit are ended so far as regards the client.

No advocate of any High Court established by Royal Charter shall be required to present any document empowering him to act.

Service of process on pleader.

40. Processes served on the pleader of any party or left at the office or ordinary residence of such pleader, relative to a suit or appeal, and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents; and, unless the Court otherwise directs, shall be as effectual for all purposes in relation to the suit or appeal as if the same had been given to or served on the party in person.

Agent to receive process.

41. Besides the recognized agents described in section 37, any person residing within the jurisdiction of the Court may be appointed an agent to accept service of process.

His appointment to be in writing and to be filed in Court.

Such appointment may be special or general and shall be made by an instrument in writing signed by the principal, and such instrument, or, if the appointment be general, a duly attested copy thereof, shall be filed in Court.

CHAPTER IV.

OF THE FRAME OF THE SUIT.

Suit how to be framed.

42. Every suit shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them.

Suit to include the whole claim.

43. Every suit shall include the whole of the claim arising out of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

Relinquishment of part of claim.

If a plaintiff omit to sue for, or intentionally relinquish, any portion of his claim, he shall not afterwards sue for the portion so omitted or relinquished.

Omission to sue for one of several remedies.

A person entitled to more than one remedy in respect of the same claim may sue for all or any of his remedies; but if he omits (except with the leave of the Court obtained before the first hearing) to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent [illegible] of the years 1875 and 1876 is due and unpaid. A sues B only for the rent due for 1875. A shall not afterwards sue B for the rent due for 1876.

44. No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immoveable property, except—

(a) claims for mesne profits or arrears of rent in respect of the property claimed,

(b) claims for the breach of any contract under which the property or any part thereof is held, or

(c) claims by a mortgagee to enforce any of his remedies under the mortgage.

Claims by or against executor, administrator, or heir.

Rule b.—No claim by or against an executor, administrator or heir as such, shall be joined with claims by or against him personally, unless the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir.

Plaintiff may join several causes of action.

45. Subject to the rules contained in section 44, the plaintiff may unite in the same suit several causes of action, and any plaintiffs having causes of action against the same defendant or defendants, may unite such causes of action in the same suit.

Court may order separation.

But if it appear to the Court that any such causes of action cannot be conveniently tried or disposed of together, the Court may, at any time before the first hearing, of its own motion or on the application of the defendant, order separate trials of any such causes of action to be had, or make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit, whether or not an order has been made under the second paragraph of this section.

Defendant may apply to confine suit.

46. Any defendant alleging that the plaintiff has united in the same suit several causes of action which cannot be conveniently disposed of in one suit may at any time before the first hearing, or, where issues are settled, before any evidence is recorded, apply to the Court for an order confining the suit to such of the causes of action as may be conveniently disposed of in one suit.

Court on hearing application may exclude some causes and order amendment.

47. If, on the hearing of such application, it appears to the Court that the causes of action are such as cannot all be conveniently disposed of in one suit, the Court may order any of such causes of action to be excluded, and may direct the plaint to be amended accordingly, and may make such order as to costs as may be just.

Every amendment made under this section shall be attested by the signature of the Judge.

CHAPTER V.

OF THE INSTITUTION OF SUITS.

Suits to be commenced by plaint.

48. Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

Language of plaint.

49. The plaint must be distinctly written in the language of the Court; provided that if such language is not English, the plaint may (with the permission of the Court) be written in English; but in such case, if the defendant so requires, a translation of the plaint into the language of the Court shall be filed by the [illegible].

Particulars to be contained in plaint.

50. The plaint must contain the following particulars:—

(a) the name of the Court in which the suit is brought;

(b) the name, description and place of abode of the plaintiff;

(c) the name, description and place of abode of the defendant, so far as they can be ascertained:

(d) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(e) a demand of the relief which the plaintiff claims; and

(f) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

In money-suits.

If the plaintiff seek the recovery of money, the plaint must state the precise amount, so far as the case admits.

In a suit for mesne profits: and in a suit for the amount which will be found due to the plaintiff on taking unsettled accounts between him and the defendant the plaint need only state approximately the amount sued for.

Where plaintiff sues as a representative.

When the plaintiff sues in a representative character, the plaint should shew, not only that he has an actual existing interest in the subject-matter, but that he has taken the steps necessary to enable him to institute a suit concerning it.

Illustrations.

(a) A sues as B's executor. The plaint must state that A has proved B's will.

(b) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(c) A sues as guardian of D, a Muhammadan minor. A is not D's guardian according to Muhammadan law and usage. The plaint must state that A has been specially appointed D's guardian.

Defendant's interest and liability to be shewn.

The plaint must shew that the defendant is or claims to be interested in the subject-matter, and that he is liable to be called upon to answer the plaintiff's demand.

Illustration.

A dies leaving B his executor, C his legatee, and D a debtor to A's estate. C sues D to compel him to pay his debt in satisfaction of C's legacy. The plaint must shew that B has causelessly refused to sue D, or that B and D have colluded for the purpose of defrauding C, or other such circumstances rendering D liable to C.

Grounds of exemption from limitation law.

If the cause of action arose beyond the period ordinarily allowed by any law for instituting the suit, the plaint must shew the ground upon which exemption from such law is claimed.

Plaint to be subscribed and verified.

51. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff or, with the permission of the Court, by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

Contents of verification.

52. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to matters stated on information and belief, and that as to those matters he believes it to be true.

Verification to be signed and attested.

The verification shall be signed by the person making it, and when he makes it out of court he shall sign it in the presence of a witness, who shall also sign it.

The Court shall examine such witness as to the fact of the signature, unless the person making the verification is present.

When the plaint may be rejected, returned for amendment, or amended.

53. The plaint may, at the discretion of the Court, and at or before the first hearing, be rejected, returned for amendment within a time to be fixed by the Court, or amended then and there, upon such terms as to the payment of costs occasioned by the amendment as the Court thinks fit,

(a) if it do not state correctly and without prolixity the several particulars hereinbefore required to be specified therein; or

(b) if it contain any particulars other than those so required; or

(c) if it be not subscribed and verified as hereinbefore required; or

(d) if it do not disclose a cause of action; or

(e) if it is not framed in accordance with section 42; or

(f) if it is wrongly framed by reason of non-joinder or misjoinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same suit.

Proviso.

Provided that a plaint cannot be altered so as to convert a suit of one character into a suit of another and inconsistent character.

Attestation of amendment.

When a plaint is amended, the amendment shall be attested by the signature of the Judge.

When the plaint shall be rejected.

54. The plaint shall be rejected in the following cases:—

(a) if the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so:

(b) if the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so:

(c) if the suit appear from the statement in the plaint to be barred by any positive rule of law:

(d) if the plaint having been returned for amendment within a time fixed by the Court is not amended within such time.

Procedure on rejecting a plaint.

55. When a plaint is rejected, the Judge shall record with his own hand an order to that effect with the reason for such order.

56. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

When rejection of plaint does not preclude presentation of fresh plaint.

57. The plaint shall be returned to be presented to the proper Court in the following cases:

When the plaint shall be returned to be presented to the proper Court.

(*a*) If a suit has been instituted in a Court whose grade is lower or higher than that of the Court competent to try it, where such Court exists, or where no option as to the selection of the Court is allowed by law:

(*b*) If, in a suit relating to immoveable property, but not coming under the proviso to section 16, it appear that no part of such property is situate within the local limits of the jurisdiction of the Court to which the plaint is presented:

(*c*) If, in any other case, it appear that the cause of action did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

On returning a plaint, the Judge shall, with his own hand, endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reason for returning it.

Procedure on returning plaint.

58. The plaintiff shall endorse on the plaint, or annex thereto, a memorandum of the documents (if any) which he has filed along with it; and if the plaint be admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permit him to present a like number of concise statements of the nature of the claim made, or of the relief or remedy required in the suit, in which case he shall present such statements.

Procedure on admitting plaint.

Concise statements.

If the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

The chief ministerial officer of the Court shall sign such memorandum and copies or statements if, on examination, he finds them to be correct.

The Court shall also cause the particulars mentioned in section 50 to be entered in a book to be kept for the purpose and called the Register of civil suits. Such entries shall be numbered in every year according to the order in which the plaint is admitted.

Register of suits.

59. If a plaintiff sue upon a document in his possession or power, he shall produce it in Court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

Production of document on which plaintiff sues.

Delivery of document or copy.

If he rely on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

List of other documents.

60. In the case of any such document not in his possession or power, he shall, if possible, state in whose possession or power it is.

Statement in case of documents not in his possession or power.

61. In case of any suit founded upon a bill of exchange or other negotiable instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Suits on lost negotiable instruments.

62. If the document on which the plaintiff sues be an entry in a shop-book or other book in his possession or power, the plaintiff shall produce the book at the time of filing the plaint, together with a copy of the entry on which he relies.

Production of shop-book.

The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original and attesting the copy if found correct, shall return the book to the plaintiff and cause the copy to be filed.

Original entry to be marked and returned.

63. A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

Inadmissibility of document not produced when plaint filed.

Nothing in this section applies to documents produced for cross-examination of the defendant's witnesses, or in answer to any case set up by the defendant, or handed to a witness merely to refresh his memory.

CHAPTER VI.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

64. When the plaint has been registered, and the copies or concise statements required by section 58 have been filed, a summons may be issued to each defendant to appear and answer the claim on a day to be therein specified, or as soon thereafter as may be practicable,

Summons.

(*a*) in person, or

(*b*) by a pleader duly instructed and able to answer all material questions relating to the suit, or

(*c*) by a pleader accompanied by some other person able to answer all such questions.

Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court:

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

65. Every such summons shall be accompanied with one of the copies or concise statements mentioned in section 58.

Copy or statement annexed to summons.

66. If the Court see reason to require the personal appearance of the defendant, the summons shall order him to appear in person in Court on the day therein specified.

Court may order defendant or plaintiff to appear in person.

If the Court see reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance.

67. No party shall be ordered to appear in person unless he resides

(*a*) within the local limit of the Court's ordinary original jurisdiction, or

(*b*) without such limits and at a place less than fifty, or, where there is railway-communication for five-sixths of the distance between the place where he resides and the place where the Court is situate, two hundred miles from the Court-house.

No party to be ordered to appear in person unless resident within 50 or, where there is a railway, 200 miles.

68. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit; and the summons shall contain a direction accordingly:

Summons to be either to settle issues or for final disposal.

Provided that, in every suit cognizable by Courts of Small Causes, the summons shall be for the final disposal of the suit.

69. The day for the appearance of the defendant shall be fixed by the Court with reference to its current business, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

Fixing day for appearance of defendant.

What shall be deemed 'sufficient time' must be determined with reference to the circumstances of the case.

70. The summons to appear and answer shall order the defendant to produce any document in his possession or power, containing evidence relating to the merits of the plaintiff's case, or upon which the defendant intends to rely in support of his case.

Summons to order defendant to produce documents required by plaintiff or relied on by defendant.

71. When the summons is for the final disposal of the suit, it shall direct the defendant to produce, on the day fixed for his appearance, the witnesses upon whose evidence he intends to rely in support of his case.

On issue of summons for final disposal, parties may be required to produce witnesses.

Service of Summons.

72. The summons shall be delivered to the proper officer of the Court, to be served by him or one of his subordinates.

Delivery of summons for service.

73. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.

Mode of service.

74. When there are more defendants than one, service of the summons shall be made on each defendant:

Service on several defendants.

Provided that, if the defendants are partners, and the suit relates to a partnership-transaction or to an actionable wrong in respect of which relief is claimable from the firm, the service may be made, unless the Court directs otherwise, either (*a*) on one defendant for himself and for the other defendants, or (*b*) on any person having the management of the business of the partnership at the principal place, within the local limits of the Court's ordinary original civil jurisdiction, of such business.

75. Whenever it may be practicable, the service shall be made on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Service to be on defendant in person, when practicable, or on his agent.

76. In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons issues, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

Service on agent by whom defendant carries on business.

For the purpose of this section, the master of a ship is the agent of his owner or charterer.

77. In a suit to obtain relief respecting, or compensation for wrong to, immoveable property, if the service cannot be made on the defendant in person, and the defendant have no agent empowered to accept the service, it may be made on any agent of the defendant in charge of the property.

Service on agent in charge, in suits for immoveable property.

78. If in any suit the defendant cannot be found and if he have no agent empowered to accept the service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

When service may be on male member of defendant's family.

Explanation.—A servant is not a member of the family within the meaning of this section.

79. When the serving-officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

Person served to sign acknowledgment.

80. If the defendant or other person refuse to sign the acknowledgment or to receive the copy of the summons,

Procedure when defendant refuses to accept service,

or if the serving-officer cannot find the defendant, and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

or cannot be found.

the serving-officer shall affix a copy of the summons on the outer door of the house in which the defendant ordinarily resides and then return the original to the Court from which it issued, with an endorsement thereon stating that he has so affixed the copy and the circumstances under which he did so.

81. The serving-officer shall, in all cases in which the summons has been served under section 79, endorse or cause to be endorsed on the original summons, the time when and the manner in which the summons was served.

Endorsement of time and manner of service.

82. When a summons is returned under section 80, the Court shall examine the serving-officer on oath touching his proceedings and may make such further enquiry in the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

Examination of serving officer.

Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding the service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house, if any, in which the defendant is known to have last resided, or in such other manner as the Court thinks fit.

Substituted service.

83. The service substituted by order of the Court, shall be as effectual as if it had been made on the defendant personally.

Effect of substituted service.

84. Whenever service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

When service is substituted, time for appearance to be fixed.

85. If the defendant resides within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent resident within the local limits of the jurisdiction of the latter Court empowered to accept the service of the summons, such Court shall send the summons, either by one of its officers or by post, to any Court, not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be conveniently served, and shall fix such time for the appearance of the defendant as the case may require.

Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.

The Court to which the summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court from which it originally issued, together with the record (if any) made under this paragraph.

86. Whenever any process issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such town, it shall be sent to the Court of Small Causes within whose jurisdiction the process is to be served,

Service within Presidency towns and Rangoon of process issued by Mufassal Courts.

and such Court of Small Causes shall deal with such process in the same manner as if the process had been issued by itself,

and shall then return the process to the Court from which it issued.

87. If the defendant be in jail, the summons shall be delivered to the officer in charge of the jail in which the defendant is confined, and such officer shall cause the summons to be served upon the defendant.

Service on defendant in jail.

The summons shall be returned to the Court from which it issued, with a statement of the service endorsed thereon and signed by the officer in charge of the jail and by the defendant.

88. If the jail in which the defendant is confined is not in the district in which the suit is instituted, the summons may be sent by post or otherwise to the officer in charge of such jail, and such officer shall cause the summons to be served upon the defendant, and shall return the summons to the Court from which it issued, with a statement of the service endorsed thereon, and signed as provided in section 87.

Procedure if jail be in a different district.

89. If the defendant resides out of British India, and has no agent in British India empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing, and forwarded to him by post if there be postal communication between such place and the place where the Court is situate.

Service when defendant resides out of British India and has no agent to accept service.

90. If there be a British Resident or Agent of Government in or for the territory in which the defendant resides, the summons may be sent to such Resident or Agent, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident or Agent return the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be conclusive evidence of the service.

Service through British Resident or Agent of Government.

91. The Court may, notwithstanding anything hereinbefore contained, substitute for the summons a letter signed by the Judge or such officer as he appoints in this behalf, when the defendant is, in the opinion of the Court, of a rank which entitles him to such mark of consideration.

Substitution of letter for summons.

The letter shall contain all the particulars required to be stated in the summons, and, subject to the provisions contained in section 92, shall be treated in all respects as a summons.

92. When a letter is so substituted for a summons, it may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; unless the defendant has an agent empowered to accept service of summons, in which case the letter may be delivered or sent to such agent.

Mode of sending such letter.

Service of Process.

93. Every process issued under this Code shall be served at the expense of the party on whose behalf it is issued, unless the Court otherwise directs.

Process to be served at expense of party issuing it.

The court-fee leviable for such service shall be levied before the process is issued.

Costs of service.

94. All notices and orders required by this Code to be given to or served on any person shall be in writing, and shall be served in the manner hereinbefore provided for the service of summons.

Notices and orders in writing how served.

Postage.

95. Postage, where chargeable on any notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid before the communication is forwarded.

Postage.

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

96. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by their respective pleaders, and the suit shall then be heard, unless the hearing be adjourned to a future day fixed by the Court.

Parties to appear on day fixed in summons for defendant to appear and answer.

97. If on the day so fixed for the defendant to appear and answer, it be found that the summons has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee leviable for such service, the Court may order that the suit be dismissed:

Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing it.

Provided that no such order shall be passed, although the summons has not been served upon the defendant, if, on the day fixed for him to appear and answer, he attends in person or by a duly authorized agent, when he is allowed to appear by agent.

Proviso.

98. If on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit is adjourned, neither party appears, the suit shall be dismissed, unless the Judge, for reasons to be recorded under his hand, otherwise directs.

If neither party appears, suit to be dismissed.

99. Whenever a suit is dismissed under section 97 or section 98, the plaintiff may (subject to the law of limitation) bring a fresh suit; or if, within the period of thirty days from the date of the order dismissing the suit, he satisfies the Court that there was a sufficient excuse for his not paying the court-fee required within the time allowed for the service of the summons or for his non-appearance, as the case may be, the Court shall pass an order to set aside the dismissal and appoint a day for proceeding with the suit.

In such case plaintiff may bring fresh suit;

or Court may restore the suit to its file.

100. If the plaintiff appears and the defendant does not appear, the procedure shall be as follows:

Procedure if only plaintiff appear.

(*a*) if it is proved that the summons was duly served, the Court may proceed *ex parte*:

when summons was duly served.

(*b*). If it is not proved that the summons was duly served, the Court shall direct a second summons to be issued and served on the defendant:

when summons not duly served.

(*c*) If it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

when summons served, but not in due time.

If it is owing to the plaintiff's default that the summons was not served in sufficient time, the Court shall order him to pay the costs occasioned by such postponement.

101. If the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.

102. If the defendant appears and the plaintiff does not appear, the Court shall dismiss the suit, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

Procedure where defendant only appears.

103. When a suit is wholly or partially dismissed under this section, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside; and if it be proved that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall set aside the dismissal upon such terms as

Decree against plaintiff by default bars fresh suit.

to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

No order shall be made under the second paragraph of this section unless the plaintiff has served the defendant with notice in writing of his application.

104. If, on the day fixed for the hearing of a suit against a defendant residing out of British India, who has no agent empowered to accept service of summons, or on any day to which the hearing has been adjourned, the defendant does not appear, the plaintiff may apply to the Court for permission to proceed with his suit, and the Court may direct that the plaintiff be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

Procedure where defendant residing out of British India does not appear.

105. If there be more plaintiffs than one, and one or more of them appear, and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way as if all the plaintiffs had appeared, and pass such order as it thinks fit.

Procedure in case of non-attendance of one or more of several plaintiffs.

106. If there be more defendants than one, and one or more of them appear, and the others do not appear, the suit shall proceed, and the Court shall, at the time of passing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

Procedure in case of non-attendance of one or more of several defendants.

107. If a plaintiff or defendant, who has been ordered to appear in person under the provisions of section 66 or section 436, does not appear in person, or shew sufficient cause to the satisfaction of the Court for failing so to appear, he shall be subject to all the provisions of the foregoing sections applicable to plaintiffs and defendants, respectively, who do not appear.

Consequence of non-attendance, without sufficient cause shewn, of party ordered to appear in person.

Of setting aside Decrees ex parte.

108. In any case in which a decree is passed *ex parte* against a defendant under section 100, he may apply to the Court by which the decree was made for an order to set it aside;

Setting aside decree *ex parte* against defendant.

and if it be proved to the satisfaction of the Court that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the decree upon such terms as to costs, payment into Court, or otherwise, as it thinks fit, and shall appoint a day for proceeding with the suit.

109. No decree shall be set aside on any such application as aforesaid, unless notice thereof in writing has been served on the opposite party.

No decree to be set aside, without notice to opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

110. The parties may, at any time before or at the first hearing of the suit, tender written statements of their respective cases, and the Court shall receive such statements and place them on the record.

Written statements.

111. If in a suit for the recovery of money the defendant claims to set-off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, and if in such claim of the defendant against the plaintiff both parties fill the same character as they fill in the plaintiff's suit, the defendant may, at the first hearing of the suit, but not afterwards, unless permitted by the Court, tender a written statement containing the particulars of the debt sought to be set-off.

Particulars of set-off to be given in written statement.

The Court shall thereupon inquire into the same, and if it find that the case fulfils the requirements of the former part of this section, and that the amount claimed to be set-off does not exceed the pecuniary limits of its jurisdiction, the Court shall set-off the one debt against the other.

Inquiry.

Such set-off shall have the same effect as a plaint in a cross-suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original and on the cross-claim; but it shall not affect the lien upon the amount decreed of any pleader in respect of the costs payable to him under the decree.

Effect of set-off.

Illustrations.

(*a*) A bequeaths Rs. 2,000 to B, and appoints C his executor and residuary legatee. B dies and D takes out administration to B's effects. C pays Rs. 1,000 as surety for D. Then D sues C for the legacy. C cannot set-off the debt of Rs. 1,000 against the legacy, for neither C nor D fills the same character with respect to the legacy as they fill with respect to the payment of the Rs. 1,000.

(*b*) A dies intestate and in debt to B. C takes out administration to A's effects, and B buys part of the effects from C. In a suit for the purchase-money by C against B, the latter cannot set-off the debt against the price, for C fills two different characters, one as the vendor to B, in which he sues B, and the other as representative to A.

(*c*) A sues B on a bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set-off. The amount not being ascertained cannot be set-off.

(*d*) A sues B on a bill of exchange for Rs. 500. B holds a judgment against A for Rs. 1,000. The two claims being both definite pecuniary demands may be set-off.

(*e*) A sues B for compensation on account of a trespass. B holds a promissory note for Rs. 1,000 from A and claims to set-off that amount against any sum that A may recover in the suit. B may do so, for as soon as A recovers, both sums are definite pecuniary demands.

(*f*) A and B sue C for Rs. 1,000. C cannot set-off a debt due to him by A alone.

(*g*) A sues B and C for Rs. 1,000. B cannot set-off a debt due to him alone by A.

(*h*) A owes the partnership firm of B and C Rs. 1,000. B dies leaving C surviving. A sues C for a debt of Rs. 1,500 due in his separate character. C may set-off the debt of Rs. 1,000.

112. Except as provided in the last preceding section, no written statement shall be received after the first hearing of the suit:

No written statement to be received after first hearing unless called for by Court.

Provided that the Court may at any time require a written statement, or additional written statement, from any of the parties, and fix a time for presenting the same:

Court may at any time call for written statement.

Provided also that a written statement, or an additional written statement, may, with the permission of the Court, be received at any time for the purpose of answering written statements so required and presented.

113. If any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pass a decree against him, or make such other order in relation to the suit as it thinks fit.

Procedure when party fails to present written statement called for by Court.

114. Written statements shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as much as possible to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he either admits or believes he will be able to prove.

Frame of written statements.

Every such statement shall be divided into paragraphs, numbered consecutively, and each paragraph containing as nearly as may be a separate allegation.

115. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received unless it be so subscribed and verified.

Written statements to be subscribed and verified.

The provisions of section 52 as to examining witnesses as to the fact of signature shall apply in the case of written statements.

116. If it appear to the Court that any written statement, whether called for by the Court or spontaneously tendered, is argumentative or prolix, or contains matter irrelevant to the suit, the Court may amend it then and there, or may, by an order to be endorsed thereon, reject the same, or return it to the party by whom it was made for amendment within a time to be fixed by the Court, imposing such terms as to costs or otherwise as the Court thinks fit.

Rejection of argumentative, prolix or irrelevant written statements.

When any amendment is made under this section, the Judge shall attest it by his signature.

Attestation of amendments.

When a statement has been rejected under this section, the party making it shall not present another written statement, unless it be expressly called for or allowed by the Court.

Effect of rejection.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. At the first hearing of the suit, the Court shall ascertain from the defendant or his pleader whether he admits or denies the allegations of fact made in the plaint and shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

Ascertainment from each party whether allegations in written statements are admitted or denied.

118. At the first hearing of the suit, or at any subsequent hearing, any party appearing in person or present in Court, or any person able to answer any material questions relating to the suit by whom such party or his pleader is accompanied, may be examined orally by the Court; and the Court may, if it thinks fit, put in the course of such examination questions suggested by either party.

Oral examination of party, or companion of himself or his pleader.

119. The substance of the examination shall be reduced to writing by the Judge, and shall form part of the record.

Substance of examination to be written.

120. If the pleader of any party who appears by a pleader refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall appear in person on such day.

Consequence of refusal or inability of pleader to answer.

If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pass a decree against him, or make such order in relation to the suit as it thinks fit.

CHAPTER X.

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

121. Any party may at any time by leave of the Court, deliver through the Court interrogatories in writing for the examination of the opposite party, or where there are more opposite parties than one, any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Power to deliver interrogatories.

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the Court, and that no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered a written statement and such statement has been received and placed on the record.

122. Interrogatories delivered under section 121 shall be served on the pleader (if any) of the party interrogated or in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80, 81 and 82 shall, in the latter case, apply so far as may be practicable.

Service of interrogatories.

123. The Court, in adjusting the costs of the suit, shall, at the instance of any party, inquire or cause inquiry to be made into the propriety of delivering such interrogatories; and if it thinks that such interrogatories have been delivered unreasonably, vexatiously or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

Inquiry into propriety of exhibiting interrogatories.

124. If any party to a suit be a body corporate or a joint stock company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in his own name or in the name of any officer or other person, any opposite party may apply to the Court for an order allowing him to deliver interrogatories to any member or officer of such corporation, company or body, and an order may be made accordingly.

Service of interrogatories on officer of corporation or company.

125. Any party called upon to answer interrogatories, whether by himself or by any such member or officer, may refuse to answer any interrogatory on the ground that it is irrelevant, or is not put *bonâ fide* for the purposes of the suit, or that the matter inquired after is not sufficiently material at that stage of the suit, or on any other like ground.

Power to strike out interrogatories as irrelevant, &c.

126. Interrogatories shall be answered by affidavit to be filed in Court within ten days from the service thereof or within such further time as the Judge may allow.

Time for filing affidavit in answer.

127. If any person interrogated omits or refuses to answer, or answers insufficiently, any interrogatory, the party interrogating may apply to the Court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further either by affidavit or by *vivâ voce* examination as the Judge may direct: Provided that the Judge shall not require an answer to any interrogatory which in his opinion need not have been answered under section 125.

Procedure where a party omits to answer sufficiently.

128. Either party may, by a notice through the Court, within a reasonable time not less than ten days before the hearing, require the other party to admit (saving all just exceptions to the admissibility of such document in evidence) the genuineness of any document material to the suit.

Power to demand admission of genuineness of documents.

An admission shall also be made in writing, signed by the other party or his pleader and filed in Court.

If such notice be not given, no costs of proving such document shall be allowed, unless the Judge otherwise orders.

If such notice is not complied with within four days after its being served, and the Judge thinks it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever may be the result of the suit.

129. The Court may, at any time during the pendency therein of any suit, order any party to the suit to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the suit, and any party to the suit may, at any time before the first hearing, apply to the Court for a like order.

Application for order for discovery of document.

Every affidavit made under this section shall specify which, if any, of the documents therein mentioned the declarant objects to produce, together with the grounds of such objection.

Affidavit in answer to such order.

130. The Court may, at any time during the pendency therein of any suit, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such suit or proceeding as the Court thinks right; and the Court may deal with such documents when produced in such manner as appears just.

Power to order production of documents during suit.

131. Every party to a suit may at any time before or at the hearing thereof give notice through the Court to any other party in whose plaint, written statement or affidavits reference is made to any document, to produce such document in the presence of such officer as the Court appoints in this behalf, for the inspection of the party giving such notice or of his pleader, and to permit such party or pleader to take copies thereof.

Notice to produce for inspection documents referred to in plaint, &c.

No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in such suit, unless he satisfies the Court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with such notice.

Consequence of non-compliance with such notice.

132. The party to whom such notice is given shall, within ten days from the receipt thereof, deliver through the Court to the party giving the same a notice stating a time within three days from such delivery at which the documents or such of them as he does not object to produce, may be inspected at his pleader's office or some other convenient place, and stating which, if any, of the documents he objects to produce, and on what grounds.

Party receiving such notice to deliver notice when and where inspection may be had.

133. If any party served with notice under section 131 omits to give notice under section 132 of the time for inspection, or objects to give inspection, or names an inconvenient place for inspection, the party desiring it may apply to the Court for an order of inspection.

Application for order of inspection.

134. Except in the case of documents referred to in the plaint, written statement, or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit shewing (*a*) of what documents inspection is sought, (*b*) that the party applying is entitled to inspect them, and (*c*) that they are in the possession or power of the party against whom the application is made.

Application to be founded on affidavit.

135. If the party from whom discovery of any kind or inspection is sought, objects to the same or any part thereof, and if the Court is satisfied that the right to such discovery or inspection depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any such issue or question should be determined before deciding upon the right to the discovery or inspection, the Court may order that the issue or question be determined first and reserve the question as to the discovery or inspection.

Power to order issue or question on which right to discovery depends to be first determined.

136. If any party fail to comply with any order under this chapter to answer interrogatories or for discovery or inspection, which has been duly served, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not appeared and answered;

and the party interrogating or seeking discovery or inspection may apply to the Court for an order to that effect, and the Court may make such order accordingly.

Any party failing to comply with any order under this chapter to answer interrogatories or for discovery or inspection which has been served personally upon him, shall also be deemed guilty of an offence under section 188 of the Indian Penal Code.

Consequences of failure to answer or give inspection.

137. The Court may, of its own accord, and may, in its discretion, upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

Court may send for papers from its own records or from other Courts.

Every application made under this section shall (unless the Court otherwise directs) be supported by an affidavit of the applicant or his pleader, shewing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

Nothing contained in this section shall be deemed to enable the Court to use in evidence any document which under the Indian Evidence Act would be inadmissible in the suit.

138. The parties or their pleaders shall bring with them and have in readiness at the first hearing of the suit, to be produced when called for by the Court, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court at any time before such hearing has ordered to be produced.

Documentary evidence to be in readiness at first hearing.

139. No documentary evidence in the possession or power of any party the production of which has been called for under section 138, and which has not been produced, shall be received at any subsequent stage of the proceedings unless good cause be shewn to the satisfaction of the Court for the non-production thereof. And the Judge receiving any such evidence shall record his reasons for so doing.

Effect of non-production of documents.

140. The Court shall receive the documents respectively produced by the parties at the first hearing, provided that the documents produced by each party be accompanied by an accurate list thereof prepared in such form as the High Court may from time to time direct.

Documents to be received by Court.

The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Rejection of irrelevant or inadmissible documents.

141. No document shall be placed on the record unless it has been proved or admitted in accordance with the law of evidence for the time being in force. Every document so proved or admitted shall be endorsed with the number and title of the suit, the name of the person producing it, and the date on which it was produced. The Judge shall then endorse with his own hand a statement that it was proved against or admitted by (as the case may be) the person against whom it is used. The document shall then be filed as part of the record:

No documents to be placed on record unless proved.

Proved documents to be marked and filed.

Provided that, if the document be an entry in a shop-book or other book, the party on whose behalf such book is produced may furnish a copy of the entry, which may be endorsed as aforesaid, and shall be filed as part of the record, and the Court shall mark the entry and shall then return the book to the person producing it.

Entries in shop-books.

All documents produced at the first hearing and not so proved or admitted shall be returned to the parties respectively producing them.

142. When a document so proved or admitted is relied on as evidence by either party, but the Court considers it inadmissible, it shall be further endorsed with the addition of the word "rejected," and the endorsement shall be signed by the Judge.

Rejected documents to be marked,

The document shall then be returned to the party who produced it.

and returned, unless detained by Court.

Court may order any document to be impounded.

143. Notwithstanding anything contained in sections 62, 141 and 142, the Court may, if it see sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

After lapse of time for appeal, document admitted in evidence may be returned.

144. In suits in which an appeal is not allowed, when the suit has been disposed of, and in suits in which an appeal is allowed, when the time for preferring an appeal from the decree has elapsed, or, if an appeal has been preferred, then after the appeal has been disposed of, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit, and placed on the record, shall, unless the document is impounded under section 143, be entitled to receive back the same:

When document may be returned before time limited.

Provided that a document may be returned at any time before either of such events, if the person applying for such return delivers to the proper officer a certified copy of such document to be substituted for the original:

Document not to be returned in certain cases.

Provided also that no document shall be returned which, by force of the decree, has become void or useless.

Receipt to be given for returned document.

On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving it, in a receipt-book to be kept for the purpose.

Provisions as to documents applied to material objects.

145. The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

Framing of issues.

146. Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

Material propositions are those propositions of law or fact which a plaintiff must allege in order to shew a right to sue.

Each material proposition affirmed by one party and denied by the other must form the subject of a distinct issue.

Issues are of two kinds: (*a*) issues of fact, (*b*) issues of law.

At the first hearing of the suit, the Court shall, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to the Court to depend.

When issues both of law and of fact arise in the same suit, and the Court is of opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

Nothing in this section requires the Court to frame and record issues when the defendant at the first hearing of the suit makes no defence.

Allegations from which issues may be framed.

147. The Court may frame the issues from all or any of the following materials:—

(*a*) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties or persons;

(*b*) allegations made in the plaint or in the written statements (if any) tendered in the suit, or in answer to interrogatories delivered in the suit;

(*c*) the contents of documents produced by either party.

Court may examine witnesses or documents before framing issues.

148. If the Court be of opinion that the issues cannot be correctly framed without the examination of some person not before the Court, or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may (subject to the rules contained in the Indian Evidence Act) compel the attendance of any person or the production of any document by the person in whose hands it may be, by summons or other process.

Power to amend, add and strike out issues.

149. The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the controversy between the parties shall be so made or framed.

The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

Questions of fact or law may by agreement be stated in the form of an issue.

150. When the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing

(*a*) that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject to some liability specified in the agreement,

(*b*) that upon such finding some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct, or

(*c*) that upon such finding one or more of the parties shall do or abstain from doing some particular act, specified in the agreement, and relating to the matter in dispute.

Court if satisfied that the agreement was executed in good faith may pronounce judgment.

151. If the Court be satisfied, after making such inquiry as it deems proper,

(*a*) that the agreement was duly executed by the parties,

(*b*) that they have a substantial interest in the decision of such question as aforesaid, and

(*c*) that the same is fit to be tried and decided,

it may proceed to record and try the issue, and state its finding or opinion thereon in the same manner as if the issue had been framed by the Court;

and may, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement;

and upon the judgment so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

If parties are not at issue on any question of law or fact.

152. If at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.

If one of several defendants be not at issue with the plaintiff.

153. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or fact, the Court may at once pronounce judgment for or against such defendant, and the suit shall proceed only against the other defendants.

If parties are at issue on questions of law or fact.

154. When the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court be satisfied that no further argument or evidence than the parties can at once supply is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues,

Court may determine issue and pronounce judgment.

and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit:

Provided that, where the summons has been issued for the settlement of issues only, the parties or their pleaders are present and none of them object.

If the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence, or for such further argument as the case requires.

If either party fails to produce his evidence, Court may pronounce judgment.

155. If the summons has been issued for the final disposal of the suit, and either party fails without sufficient cause to produce the evidence on which he relies, the Court may at once pronounce judgment,

Procedure where Court cannot pronounce judgment at first hearing.

or may if it thinks fit, after framing and recording issues under section 146, adjourn the suit for the production of such evidence as may be necessary to its decision upon such issues.

CHAPTER XIII.

OF ADJOURNMENTS.

Court may grant time, or adjourn hearing.

156. The Court may, if sufficient cause be shewn, at any stage of the suit, grant time to the parties, or to any of them, and may from time to time adjourn the hearing of the suit.

Costs of adjournment.

In all such cases the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing to be necessary for reasons to be recorded by the Judge with his own hand.

Procedure if parties fail to appear on day fixed.

157. If, on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by chapter VII, or make such other order as it thinks fit.

Court may proceed notwithstanding either party fails to produce his evidence.

158. If any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

Summons to attend to give evidence or produce documents.

159. The parties may, after the summons has been delivered for service on the defendant, whether it be for the settlement of issues only, or for the final disposal of the suit, obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such settlement or disposal, as the case may be, summonses to persons whose attendance is required either to give evidence or to produce documents.

160. The party applying for a summons shall before the summons is granted and within a period to be fixed by the Court, pay into court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned, in passing to and from the Court in which he is required to attend, and for one day's attendance.

Expenses of witnesses to be paid into court on applying for summons.

If the Court be subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) laid down by competent authority.

Scale of expenses.

161. The sum so paid into court shall be tendered to the person summoned, at the time of serving the summons if it can be served personally.

Tender of expenses to witness.

162. If it appear to the Court or to such officer as it appoints in this behalf that the sum paid into court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account; and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Procedure where insufficient sum paid in.

If it be necessary to detain the person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned, to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of the party at whose instance he was summoned; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Expenses if witness detained more than one day.

163. Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce, shall be described in the summons with reasonable accuracy.

Time, place, and purpose of attendance to be specified in summons.

164. Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce document.

165. Any person present in court may be required by the Court to give evidence or to produce any document then and there in his possession or power.

Power to require person present in Court to give evidence.

166. Every summons to a person to give evidence or produce a document shall be served as nearly as may be in manner hereinbefore prescribed for the service of summons on the defendant; and the rules contained in chapter VI as to proof of service shall apply in the case of all summonses served under this section.

Summons how served.

167. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

Time for serving summons.

168. If the serving-officer certify to the Court that the summons for the attendance of a person, either to give evidence or to produce a document, cannot be served, the Court shall examine the serving-officer on oath touching the non-service:

Attachment of property of absconding witness.

and upon being satisfied that such evidence or production is material, and that the person for whose attendance the summons has been issued is absconding or keeping out of the way for the purpose of avoiding the service of the summons, may issue a proclamation requiring him to attend to give evidence, or produce the document, at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door of the house in which he ordinarily resides.

If he does not attend at the time and place named in such proclamation, the Court may in its discretion, at the instance of the party on whose application the summons was issued, make an order for the attachment of the property of the person whose attendance is required, to such amount as the Court thinks fit, not exceeding the amount of the costs of attachment and of the fine which may be imposed under section 170:

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

169. If, on the attachment of his property, such person appears and satisfies the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

If witness appears, attachment may be withdrawn.

170. If such person does not appear, or appearing, fails to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court may impose upon him such fine not exceeding five hundred rupees as the Court thinks fit, having regard to his condition in life and all the circumstances of the case, and may order the property attached, or any part thereof, to be sold for the

Procedure if witness fails to appear.

purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of the said fine, if any:

Provided that if the person whose attendance is required pays into court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

171. Subject to the rules of this Code as to attendance and appearance and to the provisions of the Indian Evidence Act, if the Court at any time thinks it necessary to examine any person other than a party to the suit, and not named as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

Court may of its own accord summon as witnesses strangers to suit.

172. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit must attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document must either attend to produce it, or cause it to be produced, at such time and place.

Persons summoned to give evidence must attend.

173. No person so summoned and attending shall depart unless and until (*a*) he has been examined or has produced the document and the Court has risen, or (*b*) he has obtained the Court's leave to depart.

When they may depart.

174. If any person on whom a summons to give evidence or produce a document has been served fails to comply with the summons, or if any person so summoned and attending departs in contravention of section 173, the Court may order him to be arrested and brought before the Court:

Consequences of non-attendance.

Provided that no such order shall be made when the Court has reason to believe that the person so failing had a lawful excuse for such failure.

When any person so brought before the Court fails to satisfy it that he had a lawful excuse for not complying with the summons, the Court may sentence him to fine not exceeding five hundred rupees.

Explanation.—Non-payment or non-tender of a sum sufficient to defray the expenses mentioned in section 160 shall be deemed a lawful excuse within the meaning of this section.

If any person so apprehended and brought before the Court cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and on such bail or security being given, may release him.

Consequences of refusal to give evidence or produce documents.

175. If any person so failing to comply with a summons absconds or keeps out of the way, so that he cannot be apprehended and brought before the Court, the provisions of sections 168, 169 and 170 shall, *mutatis mutandis*, apply.

Procedure when witness absconds.

176. No one shall be bound to attend in person to give evidence or to be examined in Court unless he resides—

Person summoned to attend in person if so required.

(*a*) within the local limits of its ordinary original jurisdiction, or

(*b*) without such limits and at a place less than fifty or (where there is railway communication for five-sixths of the distance between the place where he resides and the place where the Court is situate) two hundred miles distant from the Court-house.

177. If any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence, or to produce any document then and there in his actual possession or power, the Court may in its discretion either pass a decree against him, or make such other order in relation to the suit as the Court thinks fit.

Consequence of refusal of party to give evidence when called on by the Court.

178. Whenever any party to a suit is required to give evidence or to produce a document, the rules as to witnesses contained in this Code shall apply to him so far as they are applicable.

Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. On the day fixed for the hearing of the suit, or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

Statement and production of evidence by party having right to begin.

Explanation.—The plaintiff has the right to begin unless where the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

Rules as to right to begin.

180. The other party shall then state his case and produce his evidence (if any).

Statement and production of evidence by other party.

The party beginning is then entitled to reply.

Reply by party beginning.

Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other

party. In the latter case the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

Witnesses to be examined in open Court.

181. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence and under the personal direction and superintendence, of the Judge.

How evidence shall be taken in appealable cases.

182. In cases in which an appeal is allowed, the evidence of each witness shall be taken down in writing, in the language of the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties or their pleaders, and the Judge shall, if necessary, correct the same and shall sign it.

When witness may require his deposition be interpreted.

183. If the evidence is taken down under section 182 in a language different from that in which it was given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given.

Memorandum when evidence is not taken down by Judge.

184. In cases in which the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

When evidence may be taken in English.

185. Where English is not the language of the Court, but all the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object to have such evidence as is given in English taken down in English, the Judge may so take it down with his own hand.

Any particular question and answer may be taken down.

186. The Court may of its own motion or on the application of any party or his pleader take down, or cause to be taken down, any particular question and answer, or any objection to any question, if there appear any special reason for so doing.

Questions objected to.

187. If any question put to a witness be objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it, together with the decision of the Court thereon.

Power to record remarks on demeanour.

188. The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

Memorandum of evidence in unappealable cases.

189. In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

Judge unable to make such memorandum to record reason of his inability.

190. If the Judge be rendered unable to make a memorandum as above required by this chapter, he shall cause the reason of such inability to be recorded, and shall cause the memorandum to be made in writing from his dictation in open Court.

Every memorandum so made shall form part of the record.

Power to deal with evidence taken down by Judge removed before conclusion of suit.

191. Where the Judge taking down any evidence, or causing any memorandum to be made under this chapter, dies or is removed from the Court before the conclusion of the suit, his successor may, if he thinks fit, deal with such evidence or memorandum as if he himself had taken it down or caused it to be made.

Power to examine witness immediately.

192. If a witness be about to leave the jurisdiction of the Court, or if other sufficient cause be shewn to the satisfaction of the Court why his evidence should be taken immediately, the Court may, upon the application of either party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient of the day fixed for the examination shall be given to the parties.

The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and may then be read at any hearing of the suit.

Court may recall and examine witness.

193. The Court may at any stage of the suit recall any witness who has been examined and who has not departed in accordance with section 173, and may (subject to the provisions of the Indian Evidence Act) put such questions to him as the Court thinks fit.

CHAPTER XVI.

OF AFFIDAVITS.

Power to order any point to be proved by affidavit.

194. Any Court of first instance and any Appellate Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not

be made authorizing the evidence of such witness to be given by affidavit.

When evidence may be given by affidavit.

195. Upon any application evidence may be given by affidavit, but the Court may at the instance of either party order the attendance for cross-examination of the declarant.

Such attendance shall be in Court unless the declarant is exempted under this Code from personal appearance in Court, or the Court otherwise directs.

Matters to which affidavits shall be confined.

196. Affidavits shall be confined to such facts as the declarant is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that reasonable grounds thereof be set forth.

The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall (unless the Court otherwise directs) be paid by the party producing the same.

Oath of declarant by whom to be administered.

197. In the case of any affidavit under this Code—

(*a*) any Court or Magistrate, or

(*b*) any officer whom a High Court may appoint in this behalf, or

(*c*) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf,

may administer the oath of the declarant.

CHAPTER XVII.

OF JUDGMENT AND DECREE.

Judgment when pronounced.

198. The Court, after the evidence has been duly taken and the parties have been heard either in person or by their respective pleaders or recognized agents, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their pleaders.

Power to pronounce judgment written by Judge's predecessor.

199. A Judge may pronounce a judgment written by his predecessor, but not pronounced, and in such case he shall not be bound by section 198, except as to giving notice.

Language of judgment.

200. The judgment shall be written in the language of the Court, or in English, or in the Judge's mother-tongue.

Translation of judgment.

201. Whenever the judgment is written in any language other than that of the Court, the judgment shall, if any of the parties so require, be translated into the language of the Court, and the translation shall also be signed by the Judge or such officer as he appoints in this behalf.

Judgment to be dated and signed.

202. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it, and shall not be altered or added to, save to correct verbal errors or to supply some accidental defect not affecting a material part of the case, or on review.

Judgments of Small Cause Courts.

203. The judgments of the Courts of Small Causes need not contain more than the points for determination and the decision thereupon.

Judgments of other Courts.

The judgments of all other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

Court to state its decision on each issue.

204. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons thereof, upon each separate issue, unless the finding upon any one

Exception

or more of the issues be sufficient for the decision of the suit.

Date of decree.

205. The decree shall bear date the day on which the judgment was pronounced; and when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree.

Contents of decree.

206. The decree must agree with the judgment: it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the register, and shall specify clearly the relief granted or other determination of the suit.

The decree shall also state the amount of costs incurred in the suit, and by what parties and in what proportions such costs are to be paid.

Power to amend decree.

If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error be found in the decree, the Court shall, of its own motion or on that of any of the parties, amend the decree so as to bring it into conformity with the judgment or to correct such error: provided that reasonable notice have been given to the parties or their pleaders of the proposed amendment.

Decree for recovery of portion of immoveable property.

207. When the subject-matter of the suit is immoveable property, and such property is identified by boundaries or numbers in a record of settlement or survey, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries or number of such portion.

Decree for delivery of moveable property.

208. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

209. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date

of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

Payment by instalments.

210. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments, with or without interest.

When Court may order payment by instalments.

And after the passing of any such decree the Court may, on the application of the judgment-debtor, and with the consent of the decree-holder, order that the amount decreed be paid by instalments on such terms as to the payment of interest, the attachment of the property of the defendant, or the taking of security from him, or otherwise, as it thinks fit:

Save as provided in this section and section 206, no decree shall be altered at the request of parties.

In suits for land, Court may decree payment of mesne profits with interest.

211. When the suit is for land or other property yielding rent or other profit, the Court may provide in the decree for the payment of rent or mesne profits in respect of such property from the institution of the suit until the delivery of possession to the party in whose favour the decree is made, or until the expiration of three years from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

Explanation.—'Mesne profits' of property mean those profits which the person in wrongful possession of such property actually received, or might with ordinary diligence have received, therefrom.

Court may determine amount of mesne profits prior to passing decree, or may reserve inquiry.

212. When the suit is for immoveable property and for mesne profits which have accrued on the property during a period prior to the institution of the suit, and the amount of such profits is disputed, the Court may either determine the amount by the decree itself, or may pass a decree for the property and direct an inquiry into the amount of mesne profits, and dispose of the same on further orders.

Administration-suit.

213. When the suit is for an account of any property and for its due administration under the decree of the Court, the Court, before making the decree, shall order such accounts and inquiries to be taken and made, and give such other directions as it thinks fit.

In the administration by the Court of the property of any person who dies after this Code comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being with respect to the estates of persons adjudged insolvent;

And all persons who in any such case would be entitled to be paid out of such property may come in under the decree for its administration, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

Applications under section 265 of the Indian Contract Act, 1872, shall be deemed to be suits within the meaning of this section.

Suit to enforce right of pre-emption.

214. When the suit is to enforce a right of pre-emption in respect of a particular sale of property, and the Court finds for the plaintiff, if the amount of purchase-money has not been paid into Court, the decree shall specify a day on or before which it shall be so paid, and shall declare that on payment of such purchase-money, together with the costs (if any) decreed against him, the plaintiff shall obtain possession of the property, but that if such money and costs are not so paid, the suit shall stand dismissed with costs.

Suit for dissolution of partnership.

215. When the suit is for the dissolution of a partnership, the Court, before making its decree, may pass an order fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

If set-off be allowed.

216. If the defendant has set-off the amount of a debt against the claim of the plaintiff, and such set-off has been allowed, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

Effect of decree.

The decree of the Court with respect to any sum awarded to the defendant shall have the same effect, and be subject to the same rules in respect of appeal or otherwise, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

Certified copies of decree and judgment to be furnished.

217. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

CHAPTER XVIII.

OF COSTS.

Costs of applications.

218. When disposing of any application under this Code, the Court may give to either party the costs of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

Judgment to direct by whom costs are to be paid.

219. The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion.

Power of Court as to costs.

220. The Court shall have full power to give and apportion costs of every application and suit in any manner it thinks fit, and the fact that the Court has no jurisdiction to try the case is no bar to the exercise of such power:

Provided if the Court directs that the costs of any application or suit shall not follow the event, the Court shall state its reasons in writing.

Costs may be set-off against sum admitted or found to be due.

221. The Court may direct that the costs payable to one party by another shall be set-off against a sum which is admitted or is found in the suit to be due from the former to the latter,

Saving of pleader's lien.

but such direction shall not affect the lien upon the amount decreed of any pleader in respect of the costs payable to him under the decree.

Interest on costs.

222. The Court may give interest on costs at any rate not exceeding six per cent. per annum and may direct that costs, with or without interest, be paid out of or charged upon the subject-matter of the suit.

Payment of costs out of subject-matter.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.

Court by which decree may be executed.

223. A decree may be executed either by the Court which passed it or by the Court to which it is sent for execution under the provisions hereinafter contained.

The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court,

(*a*) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(*b*) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(*c*) if the decree direct the sale of immoveable property situate outside the district within which the Court which passed it is situate, or

(*d*) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

The Court which passed a decree may of its own motion send it for execution to any Court subordinate thereto.

The Court to which a decree is sent under this section for execution shall certify to the Court which passed it, the fact of such execution, or where the former Court fails to execute the same, the circumstances attending such failure.

If the decree has been passed in a case cognizable by a Court of Small Causes and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the local Court of Small Causes the copies and certificate respectively mentioned in clauses (*a*), (*b*) and (*c*) of section 224; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

If the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But if the Court to which the decree is to be sent for execution is situate in a different district, the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

Procedure when Court desires that its own decree shall be executed by another Court.

224. The Court sending a decree for execution under section 223 shall send therewith

(*a*) a copy of the decree;

(*b*) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted; and

(*c*) a copy of any order for the execution of the decree, and if no such order has been made, a certificate to that effect.

Court receiving copies of decree, &c., to file same without proof.

225. The Court to which a decree is so sent shall cause such copies and certificate to be filed, without any further proof of the decree or order for execution, or of the copies thereof, or of the jurisdiction of the Court which passed it, unless the former Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

Execution of decree or order by Court to which it is sent.

226. When such copies are so filed, the decree or order may, if the Court to which it is sent be the District Court, be executed by such Court or by any subordinate Court which it directs to execute the same.

Execution by High Court, of decree transmitted by other Court.

227. If the Court to which the decree is sent for execution be a High Court, the decree shall be executed by such Court in the same manner as if it had been made by such Court in the exercise of its ordinary original civil jurisdiction.

Appeal from orders for execution of decrees of other Courts.

228. The Court executing a decree sent to it under this chapter shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its orders in executing such decree shall be subject to the same rules in respect of appeal, as if the decree had been passed by itself.

Decrees of Courts established by Government of India in Native States.

229. A decree of any Court established by the authority of the Governor General in Council in the territories of any Native Prince or State in India, which cannot be executed within the jurisdiction of the Court by which it was made, may be executed in manner herein provided within the jurisdiction of any Court in British India.

B.—Of Application for Execution.

230. When the holder of a decree desires to enforce it, he shall apply to the Court which passed the decree or to the officer, if any, appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court, then to such Court or to the proper officer thereof.

Application for execution.

The Court may in its discretion refuse execution at the same time against the person and property of the judgment-debtor.

Where an application to execute a decree for the payment of money or delivery of other property has been made under this section and granted, no subsequent application to execute the same decree shall be granted unless the Court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting any such subsequent application shall be conclusive evidence that due diligence was used to procure such satisfaction.

And no such subsequent application shall be granted after the expiration of twelve years from any of the following dates (namely)—

(*a*) the date of the decree sought to be enforced, or of the decree (if any) on appeal affirming the same, or

(*b*) where the decree or any subsequent order directs the payment of money or the delivery of property by instalments,—the date of the default in paying or delivering the instalment in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent the Court from granting an application for execution of a decree after the expiration of the said term of twelve years, where the judgment-debtor has by fraud or force prevented the execution of the decree at some time within twelve years immediately before the date of the application.

Notwithstanding anything herein contained, proceedings may be taken to enforce any decree within three years after the passing of this Code, unless when the period prescribed for taking such proceedings by the law in force immediately before the passing of this Code shall have expired before the completion of the said three years.

231. If a decree has been passed jointly in favour of more persons than one, any one or more of such persons, or his or their representatives, may apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the representative in interest of the deceased.

Application by joint decree-holder.

If the Court sees sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

232. If a decree be transferred by assignment in writing or by operation of law from the decree-holder to any other person, the transferree may apply for its execution to the Court which passed it; and if that Court thinks fit, the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Application by transferee of decree.

Provided that where the decree has been transferred by assignment, notice in writing of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to such execution:

Provided also that where a decree against several persons has been transferred to one of them, it shall not be executed against the others.

233. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Transferee to hold subject to equities enforceable against original holder.

234. If a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

If judgment-debtor die before execution, application may be made against his representative.

Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Court executing the decree may of its own motion, or on the application of the decree-holder, compel the said representative to produce such accounts as it thinks fit.

235. The application for the execution of a decree shall be in writing, verified in manner hereinbefore provided for the verification of plaints, and shall contain in a tabular form the following particulars (namely)—

Contents of application for execution of decree.

(*a*) the number of the suit;

(*b*) the names of the parties;

(*c*) the date of the decree;

(*d*) whether any appeal has been preferred from the decree;

(*e*) whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree;

(*f*) whether any and what previous applications have been made for execution of the decree and with what result;

(*g*) the amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby;

(*h*) the amount of costs, if any, awarded;

(*i*) the name of the person against whom the enforcement of the decree is sought; and

(*j*) the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

236. If the application be for the attachment of any moveable property belonging to the judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

Application for attachment of moveable property to be accompanied with inventory.

237. If the application be for the attachment of any immoveable property belonging to the judgment-debtor, it shall contain at the foot a description of the property sufficient to identify it, and also a specification of the judgment-debtor's share or interest therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

Further particulars when application is for attachment of immoveable property.

Every such description and specification shall be verified in manner hereinbefore provided for the verification of plaints.

238. If the property be land registered in the Collector's office, the application for attachment shall be accompanied by an authenticated extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for such land, and the shares of the registered proprietors.

When application must be accompanied by extract from Collector's register.

C.—Of staying Execution.

239. The Court to which a decree has been sent for execution under this chapter, shall upon sufficient cause being shewn, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was made, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto;

When Court may stay execution.

and in case the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution or discharge of such property or person pending the result of the application for such order.

240. Before passing an order under section 239, to stay execution, or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

Power to require security from, or impose conditions upon, judgment-debtor.

241. No discharge under section 239 of the property or person of a judgment-debtor, shall prevent it or him from being retaken in execution of the decree sent for execution.

Liability of judgment-debtor discharged to be retaken.

242. Any order of the Court by which the decree was passed or of such Court of appeal as aforesaid, in relation to the execution of such decree shall be binding upon the Court to which the decree was sent for execution.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

243. If a suit be pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may (if it think fit) stay execution on the decree, either absolutely or on such terms as it thinks fit, until the pending suit has been decided.

Stay of execution pending suit between decree-holder and judgment-debtor.

D.—Questions for Court executing decree.

244. The following questions shall be determined by order of the Court executing a decree and not by separate suit (namely)—

Question to be decided by Court executing decree.

(*a*) questions regarding the amount of any mesne profits as to which the decree has directed inquiry;

(*b*) questions regarding the amount of any mesne profits or interest which the decree has made payable in respect of the subject-matter of a suit between the date of its institution and the execution of the decree, or the expiration of three years from the date of the decree;

(*c*) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution of the decree.

Nothing in this section shall be deemed to bar a separate suit for mesne profits accruing between the institution of the first suit and the execution of the decree therein, where such profits are not dealt with by such decree.

E.—Of the mode of executing Decrees.

245. The Court, on receiving an application for the execution of a decree, shall ascertain whether it contains the particulars mentioned in section 235, or such of them as may be applicable to the case, and whether it is accompanied by the inventory mentioned in section 236; and if such particulars or inventory are or is wanting, it shall reject the application or return it for amendment or for the addition of the inventory, as the case may be, or amend it then and there. Every amendment made under this section shall be attested by the signature of the Judge.

Procedure on receiving application for execution of decree.

When the application is admitted, the Court shall enter in the register of the suit a note of the application and the date on which it was made, and shall order execution of the decree according to the nature of the application:

Procedure on admitting application.

Provided that, in the case of a decree for money, the value of the property attached shall as nearly as may be correspond with the amount for which the decree has been made.

246. If cross-decrees between the same parties for the payment of money be produced to the Court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

Cross-decrees.

If the two sums be equal, satisfaction shall be entered upon both decrees.

Explanation I.—The decrees contemplated by this section are (*a*) decrees made by the same Court, (*b*) decrees sent to the same Court for execution, and (*c*) decrees of which one is made by the Court and the other is sent to the same Court for execution; but not (*d*) decrees of which one is made by one Court and the other is made by another Court and not sent for execution to the former Court.

Explanation II.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as by the assignee himself.

Explanation III.—This section does not apply unless

(*e*) both decrees are capable of execution at the same time;

(*f*) the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits; and

(*g*) the sums due under the decrees are definite.

Illustrations.

(*a*) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(*b*) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this section.

(*c*) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this section.

247. When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party; but satisfaction for the smaller sum shall be entered on the decree.

Cross-claims under same decree.

When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

248. The Court shall issue a notice to the party against whom execution is applied for, requiring him to shew cause, within a period to be fixed by the Court, why the decree should not be executed against him,

Notice to show cause why decree should not be executed.

(*a*) if more than one year has elapsed between the date of the decree and the application for its execution, or

(*b*) if the enforcement of the decree be applied for against the legal representative of a party to the suit in which the decree was made:

Proviso.

Provided that no such notice shall be necessary

in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed or of the last order against the party against whom execution is applied for passed on any previous application for execution, or

in consequence of the application being against the legal representative of the judgment-debtor, if upon a previous application for execution against the same person, the Court has ordered execution to issue against him.

Explanation.—In this section the phrase "the Court" means the Court by which the decree was passed, unless the decree has been sent to another Court for execution, in which case it means such other Court.

249. If the person to whom notice is issued under the last preceding section does not appear, or does not shew cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

Procedure after issue of notice.

If he offers any objection to the enforcement of the decree, the Court shall consider such objection and pass such order as it thinks fit.

250. When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court, unless it sees cause to the contrary, shall issue its warrant for the execution of the decree.

Warrant when to issue.

251. Such warrant shall be dated the day on which it is issued, signed by the Judge or such officer as the Court appoints in this behalf, sealed with the seal of the Court, and delivered to the proper officer to be executed.

Date, signature, seal and delivery.

And a day shall be specified in such warrant on or before which it must be executed, and the proper officer shall endorse thereon the day and manner in which it was executed, or if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

252. If the decree be against a party as the legal representative of a deceased person, and the decree be for money to be paid out of the property of the deceased, it may be executed by the attachment and sale of any such property.

Decree against representative of deceased for money to be paid out of deceased's property.

If no such property can be found, and the judgment-debtor fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by

him, in the same manner as if the decree had been against him personally.

253. Whenever a person has, before the passing of a decree in an original suit, become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant:

Decree against surety.

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

254. Every decree or order directing a party to pay money, as compensation, or costs, or as the alternative to some other relief granted by the decree or order, or otherwise, may be enforced by the imprisonment of the judgment-debtor, or by the attachment and sale of his property in manner hereinafter provided, or by both.

Decree for money.

255. If the decree be for mesne profits or any other matter the amount of which in money is to be subsequently determined, the property of the judgment-debtor may, before the amount due from him under the decree has been ascertained, be attached as in the case of an ordinary decree for money.

Decree for mesne profits or other matter, amount of which to be subsequently ascertained.

256. When a decree is passed for a sum of money only, and the amount decreed does not exceed the sum of one thousand rupees, the Court may, when passing the decree, on the oral application of the decree-holder, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court, or against his moveable property within the same limits.

Power to direct immediate execution of decree for money not exceeding Rs. 1,000.

257. All money payable under a decree shall be paid as follows (namely)—

Modes of paying money under decree.

(*a*) into the Court whose duty it is to execute the decree; or

(*b*) out of Court to the decree-holder; or

(*c*) otherwise as the Court which made the decree directs.

258. If the money is paid out of Court or the decree is otherwise adjusted to the satisfaction of the decree-holder, he shall certify the payment or adjustment to the Court whose duty it is to execute the decree; and no satisfaction of a decree in part or in whole by such payment or adjustment shall be recognized by such Court unless the payment or adjustment be certified as aforesaid. Where the decree-holder fails to certify as aforesaid, the judgment-debtor may apply to such Court for an order directing the decree-holder to certify as aforesaid, and the Court, after hearing the decree-holder, may make such order, and if the decree-holder disobeys the same, may refuse further to excute the decree.

Payment of money out of Court to decree-holder.

259. If the decree be for any specific moveable, or for any share in a specific moveable, or for the recovery of a wife, it may be enforced by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the imprisonment of the judgment-debtor, or by attaching his property and keeping the same under attachment until the further order of the Court, or by both imprisonment and attachment, if necessary.

Decrees for specific moveables, or recovery of wives.

No attachment under this section shall remain in force for more than six months, at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and pay the balance, if any, to the judgment-debtor on his application.

260. When the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for the performance of any other particular act, has been made, has had an opportunity of obeying the decree or injunction and has wilfully failed to obey it, the decree may be enforced by his imprisonment, or by the attachment of his property, or by both.

Decree for specific performance or restitution of conjugal rights.

No attachment under this section shall remain in force for more than one year, at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit and may pay the balance, if any, to the judgment-debtor on his application.

261. If the decree be for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to comply with the decree, the decree-holder may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and deliver the same to the Court.

Decree for execution of conveyances, or endorsement of negotiable instruments.

The Court shall thereupon cause the draft to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing stating that his objections, if any, thereto shall be made within such time (mentioning it) as the Court fixes in this behalf.

The decree-holder may also tender a duplicate of the draft to the Court for execution upon the proper stamp-paper, if a stamp is required by law.

On proof of such service, the Court, or such officer as it appoints in this behalf, shall execute the duplicate so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree, and execute the duplicate so altered:

Provided that if any party object to the draft so served as aforesaid, his objections shall, within

the time so fixed, be stated in writing and argued before the Court, and the Court shall thereupon pass such order as it thinks fit, and execute, or alter and execute, the duplicate in accordance therewith.

Form and effect of execution of conveyance by Court.

262. The execution of a conveyance or the endorsement of a negotiable instrument by the Court under the last preceding section may be in the following form: "*C. D.*, Judge of the Court of (*or as the case may be*), for *A. B.*, in a suit by *E. F.*, against *A. B.*," or in such other form as the High Court may from time to time prescribe, and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same.

Decree for immoveable property.

263. If the decree be for the delivery of any immoveable property, possession thereof shall be delivered over to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, and, if need be, by removing any person bound by the decree who refuses to vacate the property.

Delivery of immoveable property when in occupancy of tenant.

264. If the decree be for the delivery of any immoveable property in the occupancy of a tenant or other person entitled to occupy the same, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum, or in such other mode as is customary, at some convenient place, the substance of the decree in regard to the property:

Provided that if the occupant can be found, a notice in writing containing such substance shall be served upon him, and in such case no proclamation need be made.

Partition of estate or separation of share.

265. If the decree be for the partition or for the separate possession of a share of an undivided estate paying revenue to Government, the partition of the estate or the separation of the share shall be made by the Collector.

F.—Of Attachment of Property.

Property liable to attachment and sale in execution of decree.

266. The following property is liable to attachment and sale in execution of a decree, (namely) lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundís, promissory notes, Government securities, bonds or other securities for money, debts, shares in the capital or joint-stock of any railway, banking or other public Company or Corporation, and, except as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, and whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Provided that the following particulars shall not be liable to such attachment or sale (namely)—

(*a*) the necessary wearing apparel of the judgment-debtor, his wife and children:

(*b*) tools of artizans, implements of husbandry and such cattle as may in the opinion of the Court be necessary to enable the judgment-debtor to earn his livelihood as an agriculturist:

(*c*) the materials of houses and other buildings belonging to and occupied by agriculturists:

(*d*) books of account:

(*e*) mere rights to sue for damages:

(*f*) any right of personal service:

(*g*) stipends allowed to military and civil pensioners of Government, and political pensions:

(*h*) one moiety of the salary of a public officer or of the servant of a Railway Company:

(*i*) the pay and allowances of persons to whom the Native Articles of War apply:

(*j*) the wages of labourers and domestic servants:

(*k*) an expectancy of succession by survivorship or other merely contingent or possible right or interest:

(*l*) a right to future maintenance.

Explanation.—The particulars mentioned in clauses (*g*), (*h*), (*i*) and (*j*) are exempt from attachment or sale whether before or after they are actually payable:

Provided also that nothing in this section shall be deemed:

(*a*) to exempt the materials of houses and other buildings from attachment or sale in execution of decrees for rent, or

(*b*) to affect the statute for the time being in force for punishing mutiny and desertion and for the better payment of the Army and their quarters.

Power to summon and examine persons as to property liable to be seized.

267. The Court may of its own motion or on the application of the decree-holder, summon any person whom it thinks necessary, and examine him in respect to any property liable to be seized in satisfaction of the decree, and may require the person summoned to produce any document in his possession or power relating to such property, and before issuing the summons of its own motion, shall declare the person on whose behalf the summons is so issued.

Attachment of debt, share and other property not in possession of judgment-debtor.

268. In the case of (*a*) a debt not secured by a negotiable instrument, (*b*) a share in the capital of any public company or corporation, (*c*) other moveable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any Court, the attachment shall be made by a written order prohibiting,

(*a*) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court:

(*b*) in the case of the share, the person in whose name the share may be standing, from transferring the same or receiving any dividend thereon:

(*c*) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

A copy of such order shall be fixed up in some conspicuous part of the Court-house, and another copy of the same shall be sent in the case of the debt to the debtor, in the case of the share to the proper officer of the company or corporation, and in the case of the other moveable property (except as aforesaid) to the person in possession of the same.

A debtor prohibited under clause (*a*) of this section may pay the amount of his debt into court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

No attachment under this section shall remain in force for more than six months; at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and pay the balance, if any, to the judgment-debtor on his application.

Attachment of moveable property in possession of defendant.

269. If the property be moveable property in the possession of the judgment-debtor, other than the property mentioned in the first proviso to section 266, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof:

Provided that when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody will exceed its value, the proper officer may sell it at once.

Power to make rules for maintenance of attached live-stock.

The Local Government may from time to time make rules for the maintenance and custody, while under attachment, of live-stock and other moveable property, and the officer attaching property under this section shall, notwithstanding the provisions of the former part of this section act in accordance with such rules.

Attachment of negotiable instruments.

270. If the property be a negotiable instrument not in deposit in a Court, the attachment shall be made by actual seizure, and the instrument shall be brought into court and held subject to the further orders of the Court.

Seizure of property in house.

271. If the person executing any process under this Code directing or authorizing seizure of moveable property, has gained access to a house or other building, he may unfasten and open the door of any room in which he has reason to believe any such property to be:

Provided that if the room be in the actual occupancy of a woman, who according to the customs of the country does not appear in public, the person executing the process shall give notice to her that she is at liberty to withdraw; and after allowing a reasonable time for such woman to withdraw, and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

Seizure of property in zanánás.

Attachment of property deposited in Court or with Government officer.

272. If the property be deposited in, or be in the custody of, any Court or public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon may be held subject to the further orders of the Court from which the notice issues:

Proviso.

Provided that, if such property is deposited in, or is in the custody of, a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

Attachment of decree for money.

273. If the property be a decree for money passed by the Court which passed the decree sought to be executed, the attachment shall be made by an order of the Court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

If the property be a decree for money passed by any other Court, the attachment shall be made by a notice in writing to such Court under the hand of the Judge of the Court which passed the decree sought to be executed, requesting the former Court to stay the execution of its decree until such notice is cancelled by the Court from which it was sent. The Court receiving such notice shall stay execution accordingly, unless and until

(*a*) the Court which passed the decree sought to be executed cancels the notice, or

(*b*) the holder of the decree sought to be executed applies to the Court receiving such notice to execute its own decree.

On receiving such application, the Court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

Attachment of other decrees.

In the case of all other decrees the attachment shall be made by a notice in writing, under the hand of the Judge of the Court which passed the decree sought to be executed to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way; and, when such decree has been passed by any other Court, also by sending to such Court a like notice in writing to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent. Every Court receiving such notice shall give effect to the same until it is so cancelled.

Decree-holders to give information.

The holder of any decree attached under this section shall be bound to give the Court executing the same such information and aid as may reasonably be required.

Attachment of immoveable property.

274. If the property be immoveable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from receiving the same from him by purchase, gift or otherwise.

The order shall be proclaimed at some place on adjacent to such property by beat of drum or

other customary mode, and a copy of the order shall be fixed up in a conspicuous part of the property and of the Court-house.

When the property is land paying revenue to Government, a copy of the order shall also be fixed up in the office of the Collector of the District in which the land is situate.

Order for withdrawal of attachment after satisfaction of decree.

275. If the amount decreed with costs and all charges and expenses resulting from the attachment of any property be paid into Court, or if satisfaction of the decree be otherwise made through the Court, or if the decree is set aside or reversed, an order shall be issued, on the application of any person interested in the property, for the withdrawal of the attachment.

Private alienation of property after attachment to be void.

276. When an attachment has been made by actual seizure or by written order duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, mortgage or otherwise, and any payment of the debt or dividend or a delivery of the share to the judgment-debtor during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Court may direct coin or currency-notes attached to be paid to party entitled.

277. If the property attached is coin or currency-notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

Investigation of claims to and objections to attachment of attached property.

278. If any claim be preferred to, or any objection be made to the attachment of, any property attached in execution of a decree, on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was a party to the suit:

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

Postponement of sale.

If the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

Evidence to be adduced by claimant.

279. The claimant or objector must adduce evidence to show that at the date of the attachment he had some interest in, or was possessed of, the property attached.

Release of property from attachment.

280. If upon the said investigation the Court is satisfied that, for the reason stated in the claim or objection, such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall pass an order for releasing the property wholly or to such extent as it thinks fit, from attachment.

Disallowance of claim to release of property attached.

281. If the Court is satisfied that the property was, at the time it was attached, in possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

Continuance of attachment subject to claim of incumbrancer.

282. If the Court is satisfied that the property is subject to a mortgage or lien in favour of some person not in possession, and thinks fit to continue the attachment, it may do so, subject to such mortgage or lien.

Saving of suits to establish right to attached property.

283. The party against whom an order under section 280, 281 or 282 is passed may institute a suit to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order shall be conclusive.

Power to order property attached to be sold, and proceeds be paid to person entitled.

284. Any Court may order that any property which has been attached, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

Property attached in execution of decrees of several Courts.

285. Where property not in the custody of any Court has been attached in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

G.—Of Sale and Delivery of Property.

(a) General Rules.

Sales by whom conducted and how made.

286. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and, except as provided in section 296, shall be made by public auction in manner hereinafter mentioned.

Proclamation of sales by public auction.

287. When any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court. Such proclamation shall state the time and place of sale; and shall specify as fairly and accurately as possible—

(*a*) the property to be sold;

(*b*) the revenue assessed upon the estate or part of the estate, when the property to be sold is an interest in an estate or a part of an estate paying revenue to Government;

(*c*) any incumbrance to which the property is liable;

(*d*) the amount for the recovery of which the sale is ordered; and

(*e*) every other thing which the Court considers material for the purchaser to know in order to judge of the nature and value of the property.

For the purpose of ascertaining the matters so to be specified, the Court may summon any person whom it thinks necessary, and examine him in respect to any such matters, and require him to produce any document in his possession or power relating thereto.

Rules to be made by High Court.

The High Court shall, as soon as may be after this Code comes into force, make rules for the guidance of the Courts in exercise of their duties under this section. The High Court may from time to time alter any rules so made. All such rules shall be published in the local official Gazette and shall thereupon have the force of law. As regards his own Court and the Court of Small Causes at Rangoon the Recorder of Rangoon shall be deemed to be a 'High Court' within the meaning of this paragraph.

Nothing in this section shall apply to cases in which the execution of the decree has been transferred to the Collector.

Indemnity of Judges, &c.

288. No Judge or other public officer shall be answerable for any error, misstatement or omission in any proclamation under section 287 unless the same has been committed or made dishonestly.

Mode of making proclamation.

289. The proclamation shall be made, in manner prescribed by section 274, on the spot where the property is attached.

If the Court so direct, such proclamation shall also be published in the local official Gazette and in some local newspaper, and the costs of such publication shall be deemed to be costs of the sale.

Time of sale.

290. Except in the case of property mentioned in the proviso to section 269, no sale under this chapter shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification has been affixed in the court-house of the Judge ordering the sale.

Power to adjourn sale.

291. The officer conducting any sale under this chapter may in his discretion adjourn the sale, recording his reasons for such adjournment: Provided that when the sale is made in or within the precincts of the Court-house no such adjournment shall be made without the leave of the Court. Every such sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to such officer, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court that ordered the sale.

Stoppage of sale on tender of debt and costs, or on proof of payment.

Officers concerned in execution-sales not to bid for or buy property sold.

292. No officer having any duty to perform in connection with any sale under this chapter shall either directly or indirectly bid for, acquire, or attempt to acquire, any interest in any property sold at such sale.

Defaulting purchaser answerable for loss by re-sale.

293. The deficiency of price (if any) which may happen on a re-sale under this Code by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court by the officer holding the sale,

and shall, at the instance of either the judgment-creditor or the judgment-debtor, be recoverable from the defaulter under the rules contained in this chapter for the execution of a decree for money.

Decree-holder not to bid for or buy property without permission.

294. No holder of a decree in execution of which property is sold, shall, without the express permission of the Court, bid for or purchase the property.

If decree-holder purchase, amount of decree may be taken as payment.

When a decree-holder purchases with such permission, the purchase-money and the amount due on the decree may, if he so desires, be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.

Proceeds of execution-sale to be divided rateably among decree-holders.

295. Whenever assets are realized by sale or otherwise in execution of a decree, and more persons than one have, prior to the realization, applied to the Court by which such assets are held for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be divided rateably among all such persons:

Proviso where property is sold subject to mortgage.

Provided that, when any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale:

Provided also that when any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the assent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge giving to the mortgagee or incumbrancer the same right against the proceeds of the sale as he had against the property sold.

If all or any of such assets be paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

Nothing in this section affects any right of the Government.

(b).—Rules as to Moveable Property.

Rules as to negotiable securities and shares in public Companies.

296. If the property to be sold be a negotiable instrument or a share in any public Company or Corporation, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or share through a broker at the market-rate of the day.

Payment for moveable property sold.

297. In the case of other moveable property, the price of each lot shall be paid for at the time of sale, or as soon after as the officer holding the sale directs, and in default of payment, the property shall forthwith be again put up and sold.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Irregularity not to vitiate sale of moveable property, but any person injured may sue.

298. No irregularity in publishing or conducting the sale of moveable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation, or (if such other person be the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Delivery of moveable property belonging to defendant actually seized.

299. When the property sold is a negotiable instrument or other moveable property of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which judgment-debtor is entitled subject to lien.

300. When the property sold is any moveable property to which the judgment-debtor is entitled subject to the possession of some other person, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

Delivery of debts and of shares in public Companies.

301. When the property sold is a debt not secured by a negotiable instrument, or is a share in any public Company, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the Manager, Secretary or other proper officer of the Company from permitting any such transfer or making any such payment to any person except the purchaser.

Transfer of negotiable instruments and shares.

302. If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any public Company is standing, is required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share, or may execute such other document as may be necessary.

The endorsement or execution shall be in the following form or to the like effect:—"*A. B.* by *C. D.*, Judge of the Court of *(or as the case may be)*; in a suit by *E. F.* against *A. B.*"

Until the transfer of such instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made or document executed or receipt signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself.

Vesting order in case of other property.

303. In the case of any moveable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

(c.)—Rules as to Immoveable Property.

Sales of land by Court not inferior to a District Court.

304. Sales of immoveable property in execution of a decree may be ordered by any Court other than a Court of Small Causes.

Postponement of sale of land to enable defendant to raise amount of decree.

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may on his application postpone the sale of property comprised in the order for sale for such period as it thinks proper, to enable him to raise the amount.

Certificate to judgment-debtor.

In such case the Court shall grant a certificate to the judgment-debtor authorizing him, within a period to be mentioned therein, to make the proposed mortgage, lease or sale: provided that all moneys payable under such mortgage, lease or sale, shall be paid into Court and not to the judgment-debtor.

Where such certificate has been granted and so long as it remains in force, the provisions of section 248 shall not apply.

Deposit by purchaser of immoveable property.

306. On every sale of immoveable property under this chapter, the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per centum on the amount of his purchase-money to the officer conducting the sale, and, in default of such deposit, the property shall forthwith be put up again and sold.

Time for payment in full.

307. The full amount of purchase-money shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day, or if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.

Procedure in default of payment.

308. In default of payment within the period mentioned in the last preceding section, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

Notification on re-sale of immoveable property.

309. Every re-sale of immoveable property in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

Co-sharer of a share of undivided estate sold in execution to have preference in bidding.

310. When the property sold in execution of a decree is a share of undivided immoveable property, and two or more persons, of whom one is a co-sharer,

respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the co-sharer.

Sale of land not set aside on ground of irregularity unless in case of substantial injury.

311. The decree-holder or any person whose immoveable property has been sold under this chapter may apply to the Court to set aside the sale on the ground of a material irregularity in publishing or conducting it;

but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

Effect of objection being disallowed and of its being allowed.

312. If no such application as is mentioned in the last preceding section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale as regards the parties to the suit and the purchaser.

If such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale.

No suit to set aside on the ground of such irregularity an order passed under this section shall be brought by the party against whom such order has been made.

Power to apply to set aside the sale.

313. The purchaser at any such sale may apply to the Court to set aside the sale, on the ground that the person whose property purported to be sold had no saleable interest therein, and the Court may make such order as it thinks fit: provided that no order to set aside a sale shall be made, unless the judgment-debtor and the decree-holder have had opportunity of being heard against such order.

Confirmation of sale.

314. No sale of immoveable property shall become absolute until it has been confirmed by the Court.

If sale set aside, price to be returned to purchaser.

315. When a sale of immoveable property is set aside under section 312 or 313,

or when it is found that the judgment-debtor had no saleable interest in the property which purported to be sold and the purchaser is for that reason deprived of it,

the purchaser shall be entitled to receive back his purchase-money (with or without interest as the Court may direct) from any person to whom the purchase-money has been paid.

The repayment of the said purchase-money and of the interest (if any) allowed by the Court may be enforced against such person under the rules provided by this Code for the execution of a decree for money.

Certificate to purchaser of immoveable property.

Name of the person who, at the time of sale, is declared to be the purchaser and the date of such sale.

Certificate to state title of actual purchaser.

316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating

Benámí purchaser not recognized.

317. No suit shall be maintained against the certified purchaser on the ground that the purchase was made on behalf of any other person, or on behalf of some one through whom such other person claims.

Nothing in this section shall bar a suit to obtain a declaration that the name of the certified purchaser was inserted in the certificate fraudulently or without the consent of the real purchaser.

Delivery of immoveable property in occupancy of judgment-debtor.

318. When the property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall, on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

Delivery of immoveable property in the occupancy of tenant.

319. When the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under section 316, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or in such other mode as may be customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

Power to prescribe rules for transferring to Collector execution of decrees sale of land.

320. The Local Government may, with the sanction of the Governor General in Council, declare by notification in the official Gazette that in any local area

the execution of decrees in cases in which a Court has ordered any immoveable property to be sold,

or the execution of any particular kind of such decrees,

or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property,

shall be transferred to the Collector;

and rescind or modify any such declaration.

The Local Government may also from time to time prescribe rules for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for retransmitting the decree from the Collector to the Court.

Power to prescribe rules as to transmission, execution and retransmission of decrees.

Power of Collector as to sale of land in execution of decree.

321. Whenever the execution of a decree has been so transferred, the Collector may—

(*a*) sell the property comprised in the decree by public auction and either in one or more lots as he thinks fit:

(*b*) fix a reasonable reserved price for each lot:

(*c*) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment:

(*d*) buy in the property offered for sale and re-sell the same.

Powers of Collector as to execution of certain money-decrees so transferred.

322. Whenever the execution of a decree not being a decree directing the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector may either proceed as the Court would proceed under section 305, or if he has reason to believe that the judgment-debts of the judgment-debtor can be discharged without a sale of the whole of such property, the Collector may (notwithstanding any order under section 303, but subject to such rules as may from time to time be made in this behalf by the Chief Controlling Revenue Authority) raise the amount necessary to discharge such debts with interest thereon according to the decree, or, if the decree makes no provision as to interest, then with interest (if any) at such rate as he thinks fit,

(*a*) by letting in perpetuity, or for a term, on payment of a premium equivalent to such amount, the whole or any part of the judgment-debtor's immoveable property: or

(*b*) by mortgaging the whole or any part of such property: or

(*c*) by selling part of such property: or

(*d*) by letting on farm or managing by himself or another the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale; or

(*e*) partly by one of such modes and partly by another or others of them.

For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

Procedure of Collector.

323. In the case of a decree for money, if the Collector proposes to proceed under section 322, he shall publish a notice in the language of the district, calling upon all persons holding decrees against the judgment-debtor to notify the same in writing to the Collector within sixty days from the date of such publication.

Such notice shall be published by being posted in the court-house of the Court which made the order under section 304, and at such other places (if any) as the Collector thinks fit.

So long as any letting or management under section 322 continues, the judgment-debtor and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property so let or managed, or any part thereof.

Sale by Collector.

324. If on the expiration of the letting or management, the amount necessary to discharge such debts in full with the interest (if any) payable thereon has not been raised, the Collector shall notify the fact in writing to the judgment-debtor or his representative, stating at the same time that, unless the amount necessary to discharge such debts and interest is not paid to the Collector within six weeks of the date of such notice, the Collector will proceed to sell the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property accordingly.

Sale, &c., to be reported to Court by Collector.

325. Whenever the Collector sells any property pursuant to the said order of sale or exercises any of the powers conferred upon him by section 321 or 322, he shall inform the Court which made such order of the fact of such sale or exercise, and shall render accounts to such Court of his receipts and payments in respect of the said property, and shall hold the balance at the disposal of such Court.

Application of balance.

Such balance (after deducting therefrom any debts due or liabilities incurred to Government by the judgment-debtor) shall be applied rateably in discharging the claims of all the decree-holders who have complied with the said notice; and no other person making any claim against the property so let or managed, or against such proceeds, shall be entitled to be paid thereout.

When Court may authorize Collector to stay public sale of land.

326. When, in any local area in which no declaration under section 320 is in force, the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation or management of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. The provisions of sections 322 to 325 (both inclusive) shall in such case apply to the Collector.

Local rules as to sales of land in execution of decrees for money.

327. The Local Government may from time to time, with the sanction of the Governor General in Council, make special rules for any local area imposing conditions in respect of sale of any class of interests in land in execution of decrees for money, where such interests are so uncertain or undetermined as in the opinion of the Local Government to make it impossible to fix their value:

and if, when this Code comes into operation in any local area, any special rules as to sale of land in execution of decrees are in force therein, the Local Government may continue such rules in force, or may from time to time, with the sanction of the Governor General in Council, modify the same.

All rules so made or continued, and all such modifications of the same, shall be published in the local official Gazette, and shall thereupon have the force of law.

H.—Of Resistance to Execution.

Procedure in case of obstruction to execution of decree.

328. If in the execution of a decree for the possession of property, the officer charged with the execution of the warrant is resisted or obstructed by any person, the decree-holder may complain to the Court at any time within one month from the time of such resistance or obstruction.

The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Procedure in case of obstruction by judgment-debtor or at his instigation.

329. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, the Court shall inquire into the matter of the complaint, and pass such order as it thinks fit.

Procedure when obstruction continues.

330. If the Court is satisfied that the resistance or obstruction was without any just cause, and that the complainant is still resisted or obstructed in obtaining possession of the property by the judgment-debtor or some other person at his instigation, the Court may, at the instance of the decree-holder and without prejudice to any penalty to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for such resistance or obstruction commit the judgment-debtor or such other person to jail for a term which may extend to thirty days, and direct that the decree-holder be put into possession of the property.

Procedure in case of obstruction by claimant in good faith, other than judgment-debtor.

331. If the resistance or obstruction has been occasioned by any person other than the judgment-debtor claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant;

and the Court shall, without prejudice to any proceedings to which the claimant may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of the Specific Relief Act, 1877, section 9,

and shall pass such order as it thinks fit for executing or staying execution of the decree.

Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.

332. If any person other than the defendant is dispossessed of any property in execution of a decree, and such person disputes the right of the decree-holder to dispossess him of such property under the decree, on the ground that the property was *bond fide* in his possession on his own account or on account of some person other than the judgment-debtor, and that it was not comprised in the decree, or that, if it was comprised in the decree, he was not a party to the suit in which the decree was passed, he may apply to the Court.

If, after examining the applicant, it appears to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like power as if a suit for the property had been instituted by the applicant against the decree-holder under the provisions of the Specific Relief Act, 1877, section 9,

and shall pass such order as it thinks fit for executing or staying execution of the decree.

In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

Nothing in this section or section 330 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made.

Orders passed under sections 331 and 332 to have force of decrees, and to be subject to appeal.

333. The order passed under either of sections 331 and 332 shall be in the nature of, and shall have the same force as, a decree in a suit, and shall be subject to the same conditions as to appeal or otherwise.

Resisting or obstructing purchasers in obtaining possession of immoveable property.

334. If the purchaser of any immoveable property sold in execution of a decree be resisted or obstructed by the judgment-debtor or any one on his behalf in obtaining possession of the property, the provisions of this chapter relating to resistance or obstruction to a decree-holder in obtaining possession of the property adjudged to him, shall be applicable.

Obstruction by claimant other than defendant.

335. If it appear that the resistance or obstruction was occasioned by any person other than the judgment-debtor, not in possession of the property sold, but claiming a right thereto as proprietor, mortgagee, lessee or under any other title, the Court, on the complaint of the purchaser, shall enquire into the matter of the resistance or obstruction, and pass such order thereon as it thinks fit.

The party against whom such order is passed may institute a suit to establish the right which he claims to the present possession of the property, but subject to the result of such suit, if any, the order shall be conclusive.

I.—Of Arrest and Imprisonment.

Place of judgment-debtor's imprisonment.

336. A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall as soon as practicable be brought before the Court, and his imprisonment may be in the civil jail of the district in which the Court ordering the imprisonment is situate, or, when such jail does not afford suitable accommodation, in any other place which the Local Government may appoint for the confinement of persons ordered to be imprisoned by the Courts of such district:

Arrest in houses.

Provided that no house shall be entered after sunset and before sunrise for the purpose of making an arrest under this section:

Proviso.

Provided also that when the decree in execution of which a judgment-debtor is arrested is a decree for money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

The Local Government may, by notification published in the official Gazette, direct that whenever a judgment-debtor is arrested in execution of a decree for money and brought before the Court under this section, the Court shall inform him that he may apply under chapter XX to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application and if he places all his property in possession of a receiver appointed by the Court.

If after such publication the judgment-debtor express his intention so to apply, and if he furnish sufficient security that he will appear when called upon, and that he will within one month apply under section 344 to be declared an insolvent, the Court shall release him from arrest:

But if he fails so to apply, the Court may either direct the security to be realised or commit him to jail in execution of the decree.

Warrant for arrest to direct judgment-debtor to be brought up.

337. Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid.

Scales of subsistence-allowances.

338. The Local Government may from time to time prescribe scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

Judgment-debtor's subsistence-money.

339. No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into court such sum as, having regard to the scales so fixed, the Judge thinks sufficient for the subsistence of the judgment-debtor from his arrest until he can be brought before the Court.

When a judgment-debtor is committed to jail in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the said scales, or where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

The monthly allowance fixed by the Court shall be supplied by the party on whose application the decree has been executed, to the proper officer of the Court by monthly payments in advance before the first day of each month.

The first payment shall be made for such portion of the current month as remains unexpired before the judgment-debtor is committed to jail.

Subsistence-money to be added to amount of decree.

340. Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in jail shall be deemed to be costs on the suit:

Provided that the judgment-debtor shall not be detained in jail or arrested on account of any sum so disbursed.

Release of judgment-debtor.

341. The judgment-debtor shall be discharged from jail,

(*a*) on the decree being fully satisfied, or

(*b*) at the request of the person on whose application he has been imprisoned, or

(*c*) on such person omitting to pay the allowance as hereinbefore directed, or

(*d*) if the judgment-debtor be declared an insolvent, as hereinafter provided, or

(*e*) when the term of his imprisonment as limited by section 342 is fulfilled:

Provided that in the first, second, third and fourth cases mentioned in this section, the judgment-debtor shall not be discharged without the order of the Court.

A judgment-debtor discharged under this section is thereby discharged from his debt, but he cannot be re-arrested under the decree in execution of which he was imprisoned.

Imprisonment not to exceed six months.

When not to exceed six weeks.

342. No person shall be imprisoned in execution of a decree for a longer period than six months;

or for a longer period than six weeks if the decree be for the payment of a sum of money not exceeding fifty rupees.

Endorsement on warrant.

343. The officer entrusted with the execution of the warrant shall endorse thereupon the day on and the manner in, which it was executed; and if the latest day specified in the warrant for the return thereof has been exceeded, the reason of the delay; or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the Court.

If the endorsement is to the effect that such officer is unable to execute the warrant, the Court shall examine him on oath touching his alleged inability, and may, if it think fit, summon and examine witnesses as to such inability and shall record the result.

CHAPTER XX.

OF INSOLVENT JUDGMENT-DEBTORS.

Power to apply to be declared an insolvent.

344. Any person arrested or imprisoned in execution of a decree for money may apply in writing to be declared an insolvent.

Such application shall be made to the District Court which ordered his arrest or imprisonment, or when the District Court did not make such order, then to the District Court to which the Court that made the order is subordinate.

Contents of application.

345. The application shall set forth—

(*a*) the fact of such person's arrest or imprisonment, the Court by whose order he was arrested or imprisoned, and the place in which he is in custody;

(*b*) the amount, kind and particulars of his property, and the value of any such property not consisting of money;

(*c*) the place or places in which such property is to be found;

(*d*) his willingness to put it at the disposal of the Court;

(*e*) the amount and particulars of all pecuniary claims against him; and

(*f*) the names and residences of his creditors, so far as they are known to or can be ascertained by him.

Subscription and verification of application.

346. The application shall be subscribed and verified by the applicant in manner hereinbefore prescribed for subscribing and verifying plaints.

Service on decree-holder of copy of application and notice.

347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in Court and served at the applicant's expense on the holder of the decree in execution of which he was arrested or imprisoned, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application.

The Court may, if it thinks fit, publish at the applicant's expense the application in such official Gazettes and public newspapers as it thinks fit.

Power to serve other creditors.

348. The Court may also, if it thinks fit, cause a like copy and notice to be served on any other person alleging himself to be a creditor of the applicant and applying for leave to be heard on the application.

Powers of Court as to applicant under arrest.

349. Where the applicant is under arrest, the Court may, pending the hearing under section 350, order him to be immediately committed to jail; or leave him in the custody of the officer to whom the service of the warrant was entrusted.

Procedure at hearing.

350. On the day so fixed, or on any subsequent day to which the Court may adjourn the hearing, the Court shall examine the applicant, in the presence of the persons on whom such notice has been served or their pleaders, as to his then circumstances and as to his future means of payment, and shall hear the said decree-holder, the other creditors mentioned in the application and the other persons (if any) alleging themselves to be creditors, in opposition to the applicant's discharge; and may, if it thinks fit, grant time to the said decree-holder and other creditors or persons to adduce evidence showing that the applicant is not entitled to be declared an insolvent.

Declaration of insolvency and appointment of receiver.

351. If the Court is satisfied—

(*a*) that the statements in the application are substantially true;

(*b*) that the applicant has not, with intent to defraud his creditors, concealed, transferred or removed any part of his property since the institution of the suit in which was passed the decree in execution of which he was arrested or imprisoned or at any subsequent time;

(*c*) that he has not, knowing himself to be unable to pay his debts in full, recklessly contracted debts or given an unfair preference to any of his creditors by any payment or disposition of his property;

(*d*) that he has not committed any other act of bad faith regarding the matter of the application,

the Court may declare him to be an insolvent, and may also, if it think fit, make an order appointing a receiver of his property, or if it does not appoint such receiver, may discharge the insolvent.

Creditors to prove their debts.

Schedule to be framed.

352. The creditors mentioned in the application and the other persons (if any) alleging themselves to be creditors of the insolvent, shall then produce evidence of the amount and particulars of their respective pecuniary claims against him; and the Court shall by order determine the persons who have proved themselves to be the insolvent's creditors and their respective debts; and shall frame a schedule of such persons and debts; and the declaration under section 351 shall be deemed to be a decree in favour of each of the said creditors for their said respective debts.

A copy of every such schedule shall be stuck up in the court-house.

Nothing in this section shall be deemed to entitle a partner in an insolvent firm or, when he has died before the insolvency, his legal representative, to prove in competition with the creditors of the firm.

Applications by creditors.

353. Any creditor of the insolvent who is not mentioned in such schedule may, within three months from its publication, apply to the Court for permission to produce evidence of the amount and particulars of his pecuniary claims against the insolvent, and in case the applicant proves himself to be a creditor of the insolvent, for an order directing his name to be inserted in the schedule as a creditor for the debt so proved.

Any creditor mentioned in the schedule may within three months from the publication of the schedule apply to the Court for an order altering the schedule so far as regards the amount, nature, or particulars of his own debt, or to strike out the name of another creditor, or to alter the schedule so far as regards the amount, nature, or particulars of the debt of another creditor.

In the case of any application under this section, the Court, after causing such notices as it thinks fit to be served, at the applicant's expense, on the insolvent and the other creditors and hearing their objections, if any, may comply with or reject the application.

Effect of order appointing Receiver.

354. Every order under section 351 shall be published in the local official Gazette and shall operate to vest in the Receiver all the insolvent's property (except the particulars specified in the first proviso to section 266), whether set forth in his application or not.

Receiver to give security and collect assets.

355. The Receiver so appointed shall give such security as the Court may direct and shall possess himself of all such property, except as aforesaid;

Discharge of insolvent.

and on his certifying that the insolvent has placed him in possession thereof, or has done everything in his power for that purpose, the Court may discharge the insolvent from arrest or imprisonment, as the case may be, upon such conditions (if any) as the Court thinks fit.

Duty of Receiver.

356. The Receiver shall proceed under the direction of the Court—

(*a*) to convert the property into money:

(*b*) to pay thereout debts, fines and penalties (if any) due by the insolvent to Government;

(*c*) to pay the said decree-holder's costs:

(*d*) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts, and without any preference;

His right to remuneration.

and such Receiver may retain as a remuneration for the performance of his duties a commission, to be fixed by the Court, not exceeding the rate of five per centum upon the amount of the balance so distributed (the amount of the commission so retained being deemed a distribution), and shall deliver the surplus, if any, to the insolvent or his legal representative.

Delivery of surplus.

Effect of discharge.

357. An insolvent discharged under section 355 shall not be arrested or imprisoned on account of any of the scheduled debts. But (subject to the provisions of section 358) his

property, whether previously or subsequently acquired (except the particulars specified in the first proviso to section 266 and except the property vested in the Receiver), shall, by order of the Court, be liable to attachment and sale until the decrees against him held by the scheduled creditors are fully satisfied or become incapable of being executed.

358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts.

When Court may declare insolvent absolved from further liability.

359. Whenever, at the hearing under section 350, it is proved that the applicant has

Procedure in case of dishonest applicant.

(*a*) been guilty, in his application, of any concealment or of wilfully making any false statement as to the debts due by him, or respecting the property belonging to him, whether in possession or in expectancy, or held for him in trust;

(*b*) fraudulently concealed, transferred or removed any property; or

(*c*) committed any other act of bad faith regarding the matter of the application,

the Court shall, at the instance of any of his creditors, sentence him to imprisonment for a term which may extend to one year from the date of committal.

Or the Court may, if it think fit, send him to the Magistrate to be dealt with according to law.

360. The Local Government may, by notification in the official Gazette, invest any Court other than a District Court with the powers conferred on District Courts by sections 344 to 359 (both inclusive), and the District Judge may transfer to any Court situate in his district and so invested any case instituted under section 344.

Investment of other Courts with powers of District Courts.

Transfer of cases.

Any Court so invested may entertain any application under section 344 by any person arrested in execution of a decree of such Court.

PART II.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

361. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survives.

No abatement by party's death, if cause of action survive.

Illustrations.

(*a*) A covenants with B and C to pay an annuity to B during C's life. B and C sue A to compel payment. B dies before the decree: the cause of action survives to C, and the suit does not abate.

(*b*) In the same case, all the parties die before decree. The cause of action survives to the representative of the survivor of B and C, and he may continue the suit against A's representative.

(*c*) A sues B for libel. A dies. The cause of action does not survive and the suit abates.

(*d*) A, a member of a Hindú joint family under the Mitákshará law, institutes a suit for partition of the family property. A dies leaving B, a minor son, his heir. The cause of action survives to B, and the suit does not abate.

362. If there be more plaintiffs or defendants than one, and any of them dies, and if the cause of action survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.

363. If there be more plaintiffs than one, and any of them dies, and if the cause of action does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of such legal representative, enter his name on the record in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative.

Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.

364. If no application be made to the Court by any person claiming to be the legal representative of a deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs;

and the legal representative (if any) of the deceased plaintiff shall be made a party and shall be interested in and bound by the decree passed in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding where no application made by representative of deceased plaintiff.

365. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, where the cause of action survives, on the application of the legal representative of the deceased, enter his name in the place of such plaintiff on the record, and the suit shall thereupon proceed.

Proceeding in case of death of sole, or sole surviving, plaintiff.

366. If no such application be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the Court may pass an order that the suit shall abate, and award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff;

Abatement where no application by representative of deceased plaintiff.

or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs or otherwise as it thinks fit, pass such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

Explanation.—A certificate of heirship, or a certificate to collect debts, does not of itself constitute the person holding it the legal representative of the deceased. But when the person holding any such certificate obtains thereby property belonging to the deceased, he may be treated as a legal representative liable in respect of such property.

367. If any dispute arise as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Procedure in case of dispute as to representative of deceased plaintiff.

368. If there be more defendants than one, and any of them die before decree and the cause of action does not survive against the surviving defendant or defendants alone,

Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.

and also in case of the death of a sole defendant, or sole surviving defendant, where the right to sue survives,

the plaintiff may make an application to the Court, specifying the name, description and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead.

The Court shall thereupon enter the name of such representative on the record in the place of such defendant,

and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit;

and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit:

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

369. The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and where the decree is against a female defendant, it may thereupon be executed against her alone.

Suit not abated by marriage of female party.

If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

370. The bankruptcy or insolvency of a plaintiff in any suit which his assignee or the receiver appointed under section 351 might maintain for the benefit of his creditors shall not bar the suit, unless such assignee or receiver declines to continue the suit and to give security for the costs thereof within such time as the Court may order.

When plaintiff's bankruptcy or insolvency bars suit.

If the assignee or receiver neglect or refuse to continue the suit and to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

Procedure when assignee fails to continue suit or give security.

371. When a suit abates or is dismissed under this chapter, no fresh suit shall be brought on the same cause of action.

Effect of abatement on parties' rights.

But the person claiming to be the legal representative of the deceased bankrupt or insolvent plaintiff, may apply for an order to set aside the order for abatement or dismissal; and if it be proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

Application to set aside abatement or dismissal.

372. In other cases of assignment, creation or devolution of any interest pending the suit, the suit may, with the leave of the Court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come, either in addition to or in substitution for the person from whom it has passed, as the case may require.

Procedure in case of assignment pending the suit.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. If, at any time after the institution of the suit, the Court is satisfied on the application of the plaintiff (*a*) that the suit must fail by reason of some formal defect, or (*b*) that there are sufficient grounds for permitting him to withdraw from the suit or to abandon part of his claim with liberty to bring a fresh suit for the subject-matter of the suit or for the part so abandoned, the Court may grant such permission on such terms as to costs or otherwise as it thinks fit.

Power to allow plaintiff to withdraw with liberty to bring fresh suit.

If the plaintiff withdraw from the suit, or abandon part of his claim, without such permission, he shall be liable for such costs as the Court may award, and shall be precluded from bringing a fresh suit for the same matter.

Nothing in this section shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

374. In any fresh suit instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been brought.

Limitation-law not affected by first suit.

375. If a suit be adjusted by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the Court shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final.

Compromise of suits.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

Deposit by defendant of amount in satisfaction of claim.

376. The defendant in any suit to recover a debt or damages, may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

Notice of deposit.

377. Notice of the deposit shall be given by the defendant to the plaintiff, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the plaintiff on his application.

Interest on sum deposited not allowed to plaintiff after receipt of notice.

378. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

Procedure where plaintiff accepts deposit as satisfaction in part.

379. If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the Court decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff must pay the costs of the suit incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

Procedure where he accepts it as satisfaction in full.

If the plaintiff accept such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall pass judgment accordingly, and in directing by whom the costs of each party are to be paid, the Court shall consider which of the parties is most to blame for the litigation.

Illustrations.

(*a*) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(*b*) B sues A under the circumstances mentioned in illustration (*a*). On the plaint being filed, A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shown that the litigation was necessary.

(*c*) A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

When security for costs may be required from plaintiff at any stage of suit.

380. If, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of British India, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immoveable property within British India independent of the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by any defendant.

Procedure where requisition is not complied with.

381. In the event of such security not being furnished within the time so fixed, the Court shall dismiss the suit unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of section 373.

Residence out of British India.

382. Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of British India, within the meaning of section 380.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

Cases in which Court may issue commission to examine witness.

383. Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of persons resident within the local limits of its jurisdiction, who are exempted under this Code from attending the Court, or who are from sickness or infirmity unable to attend it.

Order for commission may be made either on application of parties or by Court of its own accord.

384. Such order may be made by the Court either of its own motion, or on the application, supported by affidavit, of any party to the suit or of the witness to be examined.

When witness resides within Court's jurisdiction.

385. The commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same, may be issued to any person whom the Court thinks fit to execute the same.

When witness resides beyond Court's jurisdiction, but in British India.

386. Any Court may in any suit issue a commission for the examination of—

(*a*) any person resident beyond the local limits of its jurisdiction;

(*b*) persons who are about to leave such limits before the date on which they are required to be examined in Court; and

(*c*) civil and military officers of Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

Such commission shall ordinarily be issued to any Court not being a High Court, within the local limits of whose jurisdiction such person resides, and which can most conveniently execute the same:

When witness is within local limits of ordinary original civil jurisdiction of a High Court.

Provided that if he resides beyond the local limits of the jurisdiction of the Court issuing the commission and within the towns of Calcutta, Madras, Bombay or Rangoon, the commission shall be issued to the Court of Small Causes within whose jurisdiction he resides:

Provided also that, under special circumstances, the commission may be directed to any person whom the Court issuing the commission thinks fit to appoint.

The Court on issuing any commission under this section shall direct whether the commission shall be returned to itself or to any subordinate Court.

When witness is not within British India.

387. When any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied that his evidence is necessary, the Court may issue such commission.

Court to examine witness pursuant to commission.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

Commission when executed to be returned to Court issuing it with depositions of witnesses.

389. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit.

When depositions may be read in evidence.

390. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless

(*a*) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or

(*b*) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in the last preceding clause, and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Provisions as to execution and return of commissions to apply to commissions issued by foreign Courts.

391. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by

(*a*) Courts situate beyond the limits of British India and established by the authority of Her Majesty or of the Governor General in Council, or

(*b*) Courts situate in any part of the British Empire other than British India, or

(*c*) Courts of any foreign country for the time being in alliance with Her Majesty.

B.—Commissions for Local Investigations.

Commission to make local investigations.

392. In any suit or proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual nett profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report thereon to the Court:

Provided that, when the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

Procedure of Commissioner.

393. The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, subscribed with his name, to the Court.

Report and depositions to be evidence in suit.

The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court, or any of the parties to the suit may, with the permission of the Court, examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

Commissioner may be examined in person.

C.—Commissions to examine Accounts.

Commission to examine or adjust accounts.

394. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

Court to give Commissioner necessary instructions.

395. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

Proceedings of Commissioner receivable in evidence.

Power to make further inquiry.

The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

D.—Commission to make Partition.

Commission to make partition of non-revenue-paying immoveable property.

396. In any suit in which the partition of immoveable property not paying revenue to Government appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

The Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission issues, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party, and dis-

tinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court: and the Court, after hearing any objections which the parties may make to the report or reports shall either quash the same and issue a new commission, or (where the Commissioners agree in their report) pass a decree in accordance therewith.

E.—General Provisions.

Expenses of commission to be paid into Court.

397. Before issuing any commission under this chapter, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be paid into Court by the party at whose instance or for whose benefit the commission is issued.

Commissioner may examine parties and witnesses and call for papers.

398. Any Commissioner appointed under this chapter may, unless otherwise directed by the order of appointment,

(*a*) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him:

(*b*) call for and examine documents and other things relevant to the subject of inquiry:

(*c*) at any reasonable time enter upon or into any land or building mentioned in the order.

Attendance, examination and punishment of witnesses before Commissioner.

399. The provisions of this Code relating to the summoning, attendance and examination of witnesses and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India.

Procedure *ex parte* where parties do not appear.

400. Whenever a commission is issued under this chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

If the parties do not so appear, the Commissioner may proceed *ex parte*.

PART III.
OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.
SUITS BY PAUPERS.

Suits may be brought *in forma pauperis*.

401. Subject to the following rules, any suit may be brought by a pauper.

Explanation.—A person is a 'pauper' when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing apparel and the subject-matter of the suit.

What suits excepted.

402. No suit shall be brought by a pauper to recover compensation for loss of caste, libel, slander, abusive language or assault.

Application to be in writing.

403. The application for permission to sue by a pauper shall be in writing, and shall contain the particulars required by section 50 in regard to plaints in suits: a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, shall be annexed thereto; and it shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

Contents of application.

Presentation of application.

404. Notwithstanding anything contained in section 36, the application shall be presented to the Court by the applicant in person unless he is exempted from appearing in Court under section 640 or 641, in which case the application may be presented by a duly authorized agent, who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Rejection of application.

405. If the application be not framed or presented in the manner prescribed by sections 403 and 404, the Court shall reject it.

Examination of applicant.

406. If the application be in proper form and duly presented, the Judge shall examine the petitioner, or his agent when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

If presented by agent, Court may order applicant to be examined by commission.

When the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken under the provisions of this Code.

Rejection of application.

407. If it appear to the Court upon such examination

(*a*) that the applicant is not a pauper, or

(*b*) that he has, within the two months next before the presentation of the application, disposed of any property fraudulently or with a view to obtain the benefit of this chapter, or

(*c*) that his allegations do not show a right to sue in such Court, or

(*d*) that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter,

the Court shall reject the application.

Notice of day for receiving evidence of applicant's pauperism.

408. If upon such examination the Court sees no reason to refuse the application on any of the grounds stated in section 407, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party and the Government Pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and

for hearing any evidence which may be adduced in disproof thereof.

Procedure at hearing.

409. On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may cross-examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in section 407.

The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

Procedure if application admitted.

410. If the application be granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under chapter V, except that the plaintiff shall not be liable to any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

Costs when pauper succeeds.

411. If the plaintiff succeed in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code.

Recovery of court-fees.

Procedure when pauper fails.

412. If the plaintiff fails in the suit, or if he is dispaupered, the Court shall order the plaintiff, or any person made under section 32 co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper;

and, if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.

413. Refusal to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by Government in opposing his application for leave to sue as a pauper.

Dispaupering.

414. The Court may, on motion by the defendant, or by the Government Pleader, of which one week's notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

(*a*) if he is guilty of vexatious or improper conduct in the course of the suit;

(*b*) if it appears that his means are such that he ought not to continue to sue as a pauper, or

(*c*) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

Costs.

415. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism are costs in the suit.

CHAPTER XXVII.
SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

Suits by or against Secretary of State in Council.

416. Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council.

Persons authorized to act for Government.

417. Persons being *ex-officio* or otherwise authorized to act for Government in respect of any judicial proceeding, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of Government.

Plaints in suits by Secretary of State in Council.

418. In suits by the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "The Secretary of State for India in Council."

Agent of Government to receive process.

419. The Government Pleader in any Court shall be the agent of the Government for the purpose of receiving processes against the said Secretary of State in Council issuing out of such Court.

Appearance and answer by Secretary of State in Council.

420. The Court, in fixing the day for the said Secretary of State in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of intructions to the Government Pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

Attendance of person able to answer questions relating to suit against Government.

421. The Court may also in any case in which the Government Pleader is not accompanied by any person on the part of the said Secretary of State in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

Service on public officers.

422. Where the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being

served on him, if it appear to the Court that the summons may be most conveniently so served.

Extension of time to enable officer to make reference to Government.

423. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel;

and the Court upon such application may extend the time for so long as appears to be requisite.

Notice previous to suing Secretary of State in Council or public officer.

424. No suit shall be instituted against the said Secretary of State in Council or against a public officer until the expiration of two months next after notice in writing has been in the case of the Secretary of State in Council delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

Arrests in such suits.

425. No warrant of arrest shall be issued in such suit without the consent in writing of the District Judge.

Application where Government undertakes defence.

426. If the Government undertake the defence of a suit against a public officer, the Government Pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register.

Procedure where no such application made.

427. If such application is not made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

Defendant not liable to arrest before judgment.

Exemption of public officers from personal appearance.

428. In a suit against a public officer the Court shall exempt the defendant from appearing in person when he satisfies the Court that he cannot absent himself from his duty without detriment to the public service.

Procedure where decree is against Government or a public officer.

429. When the decree is against the said Secretary of State in Council or against a public officer, a time shall be specified in the decree within which it shall be satisfied; and if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Execution shall not issue on any such decree unless it remains unsatisfied for the period of three months computed from the date of the report.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

When aliens may sue.

430. Alien enemies residing in British India with the permission of the Governor General in Council and alien friends may sue in the Courts of British India as if they were subjects of Her Majesty.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

When a foreign State may sue.

431. A foreign State may sue in the Courts of British India, provided that—

(*a*) it has been recognized by Her Majesty or the Governor General in Council, and

(*b*) the object of the suit is to enforce the private rights of the head or of the subjects of the foreign State.

The Court shall take judicial notice of the fact that a foreign State has not been recognized by Her Majesty or by the Governor General in Council.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.

432. Persons specially appointed by order of Government at the request of any Sovereign Prince or ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

Suits against Sovereign Princes, &c.

433. Any such Prince or Chief, and any ambassador or envoy of a foreign State may, with the consent of Government certified by the signature of one of its Secretaries (but not without such consent) be sued in any competent Court not subordinate to a District Court;

Such consent shall not be given unless—

(*a*) the Prince, Chief, ambassador or envoy has instituted a suit in such Court against the person desiring to sue him, or

(*b*) the Prince, Chief, ambassador or envoy by himself or another trades within the local limits of the jurisdiction of such Court; or

(*c*) the subject-matter of the suit is immoveable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

Sovereign Princes, &c., exempt from arrest.

No such Prince, Chief, ambassador or envoy shall be arrested under this Code; and no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy unless with consent of Government certified as aforesaid.

When their property may be attached.

Execution in British India of decrees of Courts of Native States.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(*a*) declare that the decrees of any Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor General in Council, may be executed in British India as if they had been made by the Courts of British India, and

(*b*) cancel any such declaration.

So long as such declaration remains in force, the said decrees may be executed accordingly.

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

Subscription and verification of plaint.

435. In suits by a Corporation, or by a Company authorized to sue and be sued in the name of an officer or of a trustee, the plaint may be subscribed and verified on behalf of the Corporation or Company by any director, secretary, or other principal officer of the Corporation or Company, who is able to depose to the facts of the case.

Service on Corporation or Company.

436. When the suit is against a Corporation, or against a Company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served

(*a*) by leaving it at the registered office (if any) of the Corporation or Company, or

(*b*) by sending it by post in a letter addressed to such officer or trustee at the office (or if there be more offices than one, at the principal office in British India) of the Corporation or Company, or

(*c*) by giving it to any director, secretary or other principal officer of the Corporation or Company,

and the Court may require the personal appearance of any director, secretary or other principal officer of the Corporation or Company who may be able to answer material questions relating to the suit.

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

Representation of beneficiaries in suits concerning property vested in trustees, &c.

437. In all suits concerning property vested in a trustee, executor or administrator, the trustee, executor or administrator shall represent the persons beneficially interested in such property; and it shall not ordinarily be necessary to make such persons parties to the suit. But the Court may, if it think fit, order them or any of them to be made such parties.

Joinder of executors and administrators.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them:

Provided that executors who have not proved their testator's will, and executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

Husband of married executrix not to join.

439. Unless the Court directs otherwise, the husband of a married administratrix or executrix shall not be a party to a suit by or against her.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

Minor must sue by next friend.

Costs.

440. Every suit by a minor shall be instituted in his name by an adult person, who in such suit shall be called the next friend of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

Applications to be made by next friend or guardian *ad litem*.

441. Every application to the Court on behalf of a minor (other than an application under section 451) shall be made by his next friend, or his guardian for the suit.

Plaint filed without next friend to be taken off the file.

Costs.

442. If a plaint be filed by or on behalf of a minor, without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other person by whom it was presented. Notice of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

Guardian *ad litem* to be appointed by the Court.

443. Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

Order obtained without next friend or guardian may be discharged.

Costs.

444. Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, if the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

Who may be next friend.

445. Any person being of sound mind and full age may act as next friend of a minor, provided his interest is not adverse to that of such minor, and he is not a defendant in the suit.

446. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor, as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

Removal of next friend.

447. Unless otherwise ordered by the Court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

Retirement of next friend.

The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor.

Application for appointment of new next friend.

448. On the death or removal of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

Stay of proceedings on death or removal of next friend.

449. If the pleader of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

Application for appointment of new next friend.

450. A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, on coming of age must elect whether he will proceed with the suit or application.

Course to be followed by minor plaintiff or applicant on coming of age.

451. If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

Where he elects to proceed.

The title of the suit or application shall in such case be corrected so as to read thenceforth thus:

"*A. B.* late a minor by *C. D.*, his next friend, but now of full age."

452. If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

Where he elects to abandon.

Costs.

453. Any application under section 451 or section 452 may be made *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

Making and proving applications under sections 451, 452.

454. A minor co-plaintiff on coming of age, and desiring to repudiate the suit must apply to have his name struck out as co-plaintiff; and the Court, if it find that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

When minor co-plaintiff.

Notice of the application shall be served on the next friend, as well as on the defendant; and it must be proved by affidavit that the late minor has attained his full age. The costs of all parties of such application and of all or any proceedings theretofore had in the suit shall be paid by such persons as the Court directs.

Costs.

If the late minor be a necessary party to the suit, the Court may direct him to be made a defendant.

455. If any minor on attaining majority can prove to the satisfaction of the Court that a suit instituted in his name by a next friend was unreasonable or improper, he may, if a sole plaintiff, apply to have the suit dismissed.

When suit unreasonable or improper.

Notice of the application shall be served on all the parties concerned: and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit.

Costs.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name of the minor. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is a fit person to be so appointed.

Petition for appointment of guardian *ad litem*.

457. A co-defendant of sound mind and of full age may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a married woman, can be so appointed.

Who may be guardian *ad litem*.

458. If the guardian for the suit of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the Court may remove him, and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

Guardian neglecting his duty may be removed.

Costs.

459. If the guardian for the suit dies pending such suit or is removed by the Court, the Court shall appoint a new guardian in his place.

On death of guardian, *pendente lite*, new guardian to be appointed.

460. When the enforcement of a decree is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

When decree to be enforced against heir or representative.

461. No sum of money or other thing shall be received or taken by a next friend or guardian for the suit at any time on behalf of a minor, at any time before decree or order, unless he has first obtained the leave of the Court, and given security to its satisfaction that such money or other thing shall be duly accounted for, to, and held for the benefit of, such minor.

Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.

462. No next friend or guardian for the suit shall, without the leave of the Court, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which he acts as next friend or guardian.

Next friend or guardian *ad litem* not to compromise without leave of Court.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

Compromise without leave voidable.

463. The provisions contained in sections 440 to 462 (both inclusive) shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under Act No. XXXV of 1858, or under any other law for the time being in force.

Application of sections 440 to 462 to persons of unsound mind.

464. Nothing in sections 442 to 462 applies to any minor or person of unsound mind, for whose person or property a guardian or manager has been appointed by the Court of Wards or by the Civil Court under any local law.

Wards of Court.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

465. When any officer or soldier actually serving the Government in a military capacity is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

The authority shall be in writing and shall be signed by the officer or soldier in the presence of (*a*) his commanding officer or of the next subordinate officer, if the party be himself the commanding officer, or (*b*) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority which shall be filed in Court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation.—In this chapter the expression 'commanding officer' means the officer in actual command for the time being of any regiment, corps, detachment or depôt, to which the officer or soldier belongs.

466. Any person authorized by an officer or soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

Person so authorized may act personally or appoint pleaders.

467. Processes served upon any person authorized by an officer or soldier, as in section 465, or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader.

Service on person so authorized, or on his pleader, to be good service.

468. When an officer or soldier is a defendant, the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him.

Service on officers and soldiers.

The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

469. If, in the execution of a decree, a warrant of arrest is to be executed within the limits of a cantonment, garrison, military station or military bázár, the officer charged with the execution of such warrant shall deliver the same to the commanding officer.

Execution of warrant of arrest in cantonments, &c.

The commanding officer shall back the warrant with his signature, and the person named therein is within the limits of his command shall cause him to be arrested and delivered to the officer so charged.

CHAPTER XXXIII.

INTERPLEADER.

470. When two or more persons claim adversely to one another the same payment or property from another person, whose only interest therein is that of a mere stakeholder and who is ready to render it to the right owner, such stakeholder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property should be made or delivered, and of obtaining indemnity for himself:

When interpleader-suit may be instituted.

Provided that if any suit is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaint must, in addition to the other statements necessary for plaints, state—

Plaint in such suit.

(*a*) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder;

(*b*) the claims made by the defendants severally; and

(*c*) that there is no collusion between the plaintiff and any of the defendants.

Payment of thing claimed into court.

472. When the thing claimed is capable of being paid into court or placed in the custody of the Court, the plaintiff must so pay or place it before he can be entitled to any order in the suit.

Procedure at first hearing.

473. At the first hearing the Court may

(*a*) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit:

or, if it thinks that justice or convenience so require,

(*b*) retain all parties until the final disposal of the suit:

and, if it finds that the admissions of the parties or other evidence enable it,

(*c*) adjudicate the title to the thing claimed; or else it may

(*d*) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court.

When agents and tenants may institute interpleader-suits.

474. Nothing in this chapter shall be taken to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(*a*) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(*b*) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader-suit against A and C.

Charge of plaintiff's costs.

475. When the suit is properly instituted, the Court may provide for the plaintiff's costs by giving him a charge on the thing claimed or in some other effectual way.

Procedure where a defendant is suing stakeholder.

476. If any of the defendants in an interpleader-suit is actually suing the stakeholder in respect of the subject of such suit, the Court in which the suit against the stakeholder is pending shall, on being duly informed by the Court which passed the decree in the interpleader-suit in favour of the stakeholder, that such decree has been passed, stay the proceedings as against him; and his costs in the suit so stayed may be provided for in such suit; but if, and so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

Costs.

PART IV.
PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

When plaintiff may apply that security be taken.

477. If at any stage of any suit, other than a suit for the possession of immoveable property, the plaintiff satisfies the Court by affidavit—

that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,

(*a*) has absconded or left the jurisdiction of the Court, or

(*b*) is about to abscond or to leave the jurisdiction of the Court, or

(*c*) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit.

Order to bring up defendant to show cause why he should not give security.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied

that the defendant, with any such intent as aforesaid,

(*a*) has absconded or left the jurisdiction of the Court, or

(*b*) is about to abscond or to leave the jurisdiction of the Court, or

(*c*) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under the circumstances last aforesaid,

the Court may issue an order for bringing the defendant before the Court to show cause why he should not give security for his appearance.

If defendant fail to show cause, Court may order him to make deposit or give security.

479. If the defendant fail to show such cause, the Court shall order him either to deposit in court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit.

The surety shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

Procedure in case of application by surety to be discharged.

480. The surety for the appearance of the defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

Procedure where defendant fails to give security or find fresh security.

481. If the defendant fail to comply with any order under section 479 or section 480, the Court may commit him to jail until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree: Provided that no person shall be imprisoned under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees.

Subsistence of defendant arrested.

482. The provisions of section 339 as to allowances payable for the subsistence of judgment-debtors shall apply to all defendants arrested under this chapter.

B.—Attachment before Judgment.

Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.

483. If at any stage of any suit the plaintiff satisfies the Court by affidavit that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,

(*a*) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(*b*) has quitted the jurisdiction of the Court, leaving therein property belonging to him,

the plaintiff may apply to the Court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit, and, on his failing to give such security, to direct that any portion of his property shall be attached until the further order of the Court.

Contents of application.

The application shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

Court may call on defendant to furnish security or show cause.

484. If the Court, after examining the applicant, and making any further investigation which it thinks fit, is satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, the Court may require him, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

Attachment if cause not shown or security not furnished.

485. If the defendant fail to show cause why he should not furnish security, or fail to furnish the security required within the time fixed by the Court, the Court may order that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, shall be attached.

Withdrawal of attachment.

If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

Mode of making attachment.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

Investigation of claims to property attached before judgment.

487. If any claim be preferred to the property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

Removal of attachment when security furnished.

488. When an order of attachment before judgment is passed, the Court which passed the order shall remove the attachment whenever the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.

489. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Property attached under this chapter, not to be re-attached in execution of decree.

490. Where property is under attachment by virtue of the provisions of this chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to re-attach the property in execution of such decree.

C.—Compensation for improper Arrests or Attachments.

Compensation for obtaining arrest or attachment on insufficient grounds.

491. If in any suit in which an arrest or attachment has been effected, it appear to the Court that such arrest or attachment was applied for on insufficient grounds,

or if the suit of the plaintiff fails, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding one thousand rupees, as

it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment:

Proviso.

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

Cases in which temporary injunction may be granted.

492. If in any suit it be proved by affidavit or otherwise

(*a*) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(*b*) that the defendant threatens, or is about to remove or dispose of his property with intent to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or give such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, or refuse such injunction or other order.

Injunction to restrain repetition or continuance of breach.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, whether compensation be claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

The Court may by order grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit, or refuse the same.

In case of disobedience, an injunction granted under this section or section 492 may be enforced by the imprisonment of the defendant for a term not exceeding six months, or the attachment of his property, or both.

No attachment under this section shall remain in force for more than one year, at the end of which time if the defendant has not obeyed the injunction, the property attached may be sold, and out of the proceeds the Court may award to the plaintiff such compensation as it thinks fit and may pay the balance, if any, to the defendant.

Before granting injunction, Court may direct notice to be given to opposite party.

494. The Court shall in all cases, except where it appear that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

Injunction to corporation binding on its members and officers.

495. An injunction directed to a corporation or public company is binding not only on the corporation or company itself, but also on all members and officers of the corporation or company whose personal action it seeks to restrain.

Order for injunction may be discharged, varied or set aside.

496. Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Compensation to defendant for issue of injunction on insufficient grounds.

497. If it appears to the Court that the injunction was applied for on insufficient grounds, or

if, after the issue of the injunction, the suit is dismissed or judgment is given against the plaintiff by default or otherwise, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction:

Proviso.

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

B.—Interlocutory Orders.

Power to order interim sale of perishable articles.

498. The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any moveable property being the subject of such suit, which is subject to speedy and natural decay.

Power to make order for detention, &c., of subject-matter and to authorize entry, taking of samples and experiments.

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit,

(*a*) make an order for the detention, preservation or inspection of any property being the subject of such suit;

(*b*) for all or any of the purposes aforesaid, authorize any person to enter upon or into any land or building in the possession of any other party to such suit, and

(*c*) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

The provisions hereinbefore contained as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this section.

Application for such orders to be after notice.

500. An application by the plaintiff for an order under section 498 or section 499 may be made after notice in writing to the defendant at any time after service of the summons.

An application by the defendant for a like order may be made after notice in writing to the plaintiff, and at any time after the applicant has appeared.

When party may be put in immediate possession of land, the subject of suit.

501. When land paying revenue to Government, or a tenure liable to sale, is the subject of a suit, if the party in possession of such land or tenure neglects to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure;

and the Court in its decree may award against the defaulter the amount so paid, with interest thereupon at such rate as the Court thinks fit, or may charge the amount so paid, with interest thereupon at such rate as the Court orders, in any adjustment of accounts which may be directed in the decree passed in the suit.

Deposit of money, &c., in Court.

502. When the subject-matter of a suit is money or some other thing capable of delivery, and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in court or delivered to such last-named party, with or without security, subject to the further direction of the Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS.

Power of Court to appoint receivers.

503. Whenever it appears to the Court to be necessary for the realization, preservation or better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may by order

(*a*) appoint a receiver of such property, and, if need be,

(*b*) remove the person in whose possession or custody the property may be from the possession or custody thereof;

(*c*) commit the same to the custody or management of such receiver; and

(*d*) grant to such receiver such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the Court thinks fit.

Receiver's liabilities.

Every receiver so appointed shall

(*e*) give such security (if any) as the Court thinks fit duly to account for what he shall receive in respect of the property,

(*f*) pass his accounts at such periods and in such form as the Court directs,

(*g*) pay the balance due from him thereon as the Court directs, and

(*h*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Nothing in this section authorizes the Court to remove from the possession or custody of property under attachment any person whom the parties to the suit, or some or one of them, have or has not a present right so to remove.

When Collector may be appointed receiver.

504. If the property be land paying revenue to Government, or land of which the revenue has been assigned or redeemed, and the Court considers that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver of such property.

Courts empowered under this chapter.

505. The powers conferred by this chapter shall be exercised only by High Courts and District Courts. Provided that whenever the Judge of a Court subordinate to a District Court considers it expedient that a receiver should be appointed in any suit before him, he shall nominate such person as he considers fit for such appointment, and submit such person's name, with the grounds for the nomination, to the District Court, and the District Court shall authorize such Judge to appoint the person so nominated or pass such other order as it thinks fit.

PART V.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.

REFERENCE TO ARBITRATION.

Parties to suit may apply for order of reference.

506. If all the parties to a suit desire that any matter in difference between them in the suit be referred to arbitration, they may, at any time before judgment is pronounced, apply, in person or by their respective pleaders specially authorized in writing in this behalf, to the Court for an order of reference.

Every such application shall be in writing and shall state the particular matter sought to be referred.

Nomination of arbitrator.

507. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

When Court to nominate arbitrator.

If the parties cannot agree with respect to such nomination, or if the person whom they nominate refuses to accept the arbitration and the parties desire that the nomination shall be made by the Court, the Court shall nominate the arbitrator.

Order of reference.

508. The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award, and specify such time in the order.

When once a matter is referred to arbitration, the Court shall not deal with it in the same suit, except as hereinafter provided.

509. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators.

When reference is to two or more, order to provide for difference of opinion.

(*a*) by the appointment of an umpire, or

(*b*) by declaring that the decision shall be with the majority if the major part of the arbitrators agree, or

(*c*) by empowering the arbitrators to appoint an umpire, or

(*d*) otherwise, as may be agreed between the parties; or, if they cannot agree, as the Court determines.

If an umpire is appointed, the Court shall fix such time as it thinks reasonable for the delivery of his award in case he is required to act.

510. If the arbitrator, or, where there are more arbitrators than one, any of the arbitrators, or the umpire, dies, or refuses, or neglects, or becomes incapable to act, or leaves British India under circumstances showing that he will probably not return at an early date, the Court may in its discretion either appoint a new arbitrator or umpire in the place of the person so dying, or refusing, or neglecting, or becoming incapable to act, or leaving British India, or make an order superseding the arbitration, and in such case shall proceed with the suit.

Death, incapacity, &c., of arbitrators or umpire.

511. Where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice has been served, or such further time as the Court may in each case allow, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

Appointment of umpire by Court.

512. Every arbitrator or umpire appointed under section 509, 510 or 511 shall have the like powers as if his name had been inserted in the order of reference.

Powers of arbitrator or umpire appointed under sections 509, 510, 511.

513. The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire to examine, as the Court may issue in suits tried before it.

Summoning witnesses.

Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpirer during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

Punishment for default, &c.

514. If from the want of the necessary evidence or information, or from any other cause, the arbitrators cannot complete the award within the period specified in the order, the Court may, if it think fit, either grant a further time, and from time to time enlarge the period for the delivery of the award, or make an order superseding the arbitration, and in such case shall proceed with the suit.

Extension of time for making award.

515. When an umpire has been appointed, he may enter on the reference in the place of the arbitrators

When umpire may arbitrate in lieu of arbitrators.

(*a*) if they have allowed the appointed time to expire without making an award, or

(*b*) when they have delivered to the Court or to the umpire a notice in writing, stating that they cannot agree.

516. When an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

Award to be signed and filed.

517. Upon any reference by an order of Court, the arbitrators or umpire may, with the consent of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court; and the Court shall deliver its opinion thereon; and such opinion shall be added to and form part of the award.

Arbitrators or umpire may state special case.

518. The Court may, by order, modify or correct an award,

Court may, on application, modify or correct award in certain cases.

(*a*) where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred, or

(*b*) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision.

519. The Court may also make such order as it thinks fit respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

Order as to costs of arbitration.

520. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit,

When award or matter referred to arbitration may be remitted.

(*a*) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration;

(*b*) where the award is so indefinite as to be incapable of execution;

(*c*) where an objection to the legality of the award is apparent upon the face of it.

521. An award remitted under section 520 becomes void on the refusal of the arbitrators or umpire to reconsider it. But no award shall be set aside except on one of the following grounds (namely)—

Grounds for setting aside award.

(*a*) corruption or misconduct of the arbitrator or umpire;

(*b*) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;

(*c*) the award having been made after the issue of an order by the Court superseding the arbitration and restoring the suit;

and no award shall be valid unless made within the period allowed by the Court.

522. If the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application has been made to set aside the award, or if the Court has refused such application,

Judgment to be according to award.

the Court shall, after the time for making such application has expired, proceed to give judgment according to the award,

or, if the award has been submitted to it in the form of a special case, according to its own opinion on such case:

Upon the judgment so given a decree shall follow, and shall be enforced in manner provided in this Code for the execution of decrees. No appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award.

Decree to follow.

523. When any persons agree in writing that any difference between them shall be referred to the arbitration of any person named in the agreement or to be appointed by any Court having jurisdiction in the matter to which the agreement relates, the parties thereto, or any of them, may apply that the agreement be filed in Court.

Agreement to refer to arbitration may be filed in Court.

The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

Application to be numbered and registered.

On such application being made, the Court shall direct notice thereof to be given to any of the parties to the agreement other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

Notice to show cause against filing it.

If no sufficient cause be shown, the Court may order the agreement to be filed, and shall make an order of reference thereon, and may also nominate the arbitrator when he is not named therein and the parties cannot agree as to the nomination.

524. The foregoing provisions of this chapter, so far as they are consistent with any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court under section 523, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Provisions of this chapter applicable to proceedings under order of reference.

525. When any matter has been referred to arbitration without the intervention of a Court of Justice, and an award has been made thereon, any person interested in the award may apply to the Court of the lowest grade having jurisdiction over the matter to which the award relates, that the award be filed in Court.

Filing award in matter referred to arbitration without intervention of Court.

The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

Application to be numbered and registered.

The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

Notice to parties to arbitration.

526. If no ground such as is mentioned or referred to in section 520 or 521, be shown against the award, the Court shall order it to be filed, and such award shall then take effect as an award made under the provisions of this chapter.

Filing and enforcement of such award.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Parties claiming to be interested in the decision of any question of fact or law, may enter into an agreement in writing stating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,

Power to state case for Court's opinion.

(*a*) a sum of money fixed by the parties or to be determined by the Court, shall be paid by one of the parties to the other of them; or

(*b*) some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or

(*c*) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby.

528. If the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be

When value of subject-matter must be stated.

delivered, or to which the act specified has reference, shall be stated in the agreement.

Agreement to be filed and numbered as a suit.

529. The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested, as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Parties to be subject to Court's jurisdiction.

530. When the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of the case.

531. The case shall be set down for hearing as a suit instituted under chapter V, the provisions of which shall apply to such suit so far as the same are applicable.

If the Court is satisfied, after an examination of the parties, or taking such evidence as it thinks fit,

(*a*) that the agreement was duly executed by them, and

(*b*) that they have a *bonâ fide* interest in the question stated therein, and

(*c*) that the same is fit to be decided,

it shall proceed to pronounce judgment thereon, in the same way as in an ordinary suit, and upon the judgment so given a decree shall follow, and shall be enforced in the manner provided in this Code for the execution of decrees.

CHAPTER XXXIX.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

Institution of summary suits upon bills of exchange, &c.

532. In any Court to which this section applies all suits upon bills of exchange, hundís or promissory notes may, in case the plaintiff desires to proceed under this chapter, be instituted by presenting a plaint in the form prescribed by this Code; but the summons shall be in the form contained in the fourth schedule hereto annexed, No. 172, or in such other form as the High Court may from time to time prescribe.

In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter mentioned so to appear and defend;

and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

Payment into Court of sum mentioned in summons.

The defendant shall not be required to pay into Court the sum mentioned in the summons, or to give security therefor, unless the Court thinks his defence not to be *primâ facie* sustainable, or feels reasonable doubt as to its good faith.

Explanation.—This section is not confined to cases in which the bill, hundí or note sued upon, together with mere lapse of time, is sufficient to establish a *primâ facie* right to recover.

Defendant showing defence on merits to have leave to appear.

533. The Court shall, upon application by the defendant, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon affidavits satisfactory to the Court, which disclose a defence or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as the Court thinks fit.

Power to set aside decree.

534. After decree, the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it seem reasonable to the Court so to do, and on such terms as the Court thinks fit.

Power to order bill to be deposited with officer of Court.

535. In any proceeding under this chapter the Court may order the bill, hundí or note on which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

Recovery of cost of noting non-acceptance of dishonoured bill.

536. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

Procedure in suits under this chapter.

537. Except as provided by sections 532 to 536 both inclusive, the procedure in suits under this chapter shall be the same as the procedure in suits instituted under chapter V.

Power to extend this chapter.

538. Sections 532 to 537 (both inclusive) apply only to—

(*a*) the High Courts of Judicature at Fort William, Madras and Bombay;

(*b*) the Court of the Recorder of Rangoon;

(*c*) the Courts of Small Causes in Calcutta, Madras and Bombay;

(*d*) the Court of the Judge of Karáchi; and

(*e*) any other Court having ordinary original civil jurisdiction to which the Local Government may, by notification in the official Gazette, apply them.

In case of such application the Local Government may direct by whom any of the powers and duties incident to the provisions so applied shall be exercised and performed, and make any rules which it thinks requisite for carrying into operation the provisions so applied.

Within one month after such notification has been published, such provisions shall apply accordingly, and the rules so made shall have the force of law.

The Local Government may from time to time alter or cancel any such notification.

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

When suit relating to public charities may be brought.

539. In case of any alleged breach of any express or constructive trust created for public charitable purposes, or whenever the direction of the Court is deemed necessary for the administration of any such trust, the Advocate General acting *ex-officio*, or two or more persons having a direct interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit in the High Court or the District Court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

(*a*) appointing new trustees of the charity:

(*b*) vesting any property in the trustees of the charity:

(*c*) declaring the proportions in which its objects are entitled:

(*d*) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged:

(*e*) settling a scheme for its management;

or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate General may (where there is no Advocate General) be exercised by the Government Advocate) or (where there is no Government Advocate) by such officer as the Local Government may appoint in this behalf.

PART VI.

OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

Appeal to lie from all original decrees, except when expressly prohibited.

540. Unless when otherwise expressly provided in this Code or by any other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

Form of appeal.

541. The appeal shall be made in the form of a memorandum in writing presented by the appellant, and shall be accompanied by a copy of the decree appealed against and (unless the appellate Court dispenses therewith) of the judgment on which it is founded.

Memorandum to be accompanied by copy of decree and judgment.

Such memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

Memorandum of appeal.

Appellant confined to grounds set out.

542. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant:

Provided that the Court shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

Rejection of memorandum or grounds of objection.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court, or be amended then and there.

When the Court rejects under this section any memorandum, it shall record the reasons for such rejection.

When a memorandum of appeal is amended under this section the Judge, or such officer as he appoints in this behalf, shall attest the amendment by his signature.

One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

544. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants as the case may be.

Of staying and executing Decrees under Appeal.

Execution of decree not stayed solely by reason of appeal.

545. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against the decree; but the Appellate Court may for sufficient cause order the execution to be stayed:

Stay of execution of appealable decree before time for appealing has expired.

If an application be made for stay of execution of an appealable decree before the expiry of the time allowed for appealing therefrom, the Court which passed the decree may for sufficient cause order the execution to be stayed:

Provided that no order shall be made under this section unless the Court making it is satisfied—

(*a*) that substantial loss may result to the party applying for stay of execution unless the order is made;

(*b*) that the application has been made without unreasonable delay; and

(*c*) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

Security required before making order to stay execution.

546. If an order is made for the execution of a decree against which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Appellate Court,

Security in case of order for execution of decree appealed against.

or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

And when an order has been passed for the sale of immoveable property in execution of a decree for money and an appeal is pending against such decree, the sale shall on the application of the judgment-debtor be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the Court which passed the decree thinks fit.

547. No such security as is mentioned in sections 545 and 546 shall be required from the Secretary of State for India in Council, or (when Government has undertaken the defence of the suit) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of presentation, and shall register the appeal in a book to be kept for the purpose.

Registry of memorandum of appeal.

Such book shall be called the Register of Appeals.

Register of appeals.

549. The Appellate Court may, at its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both:

Appellate Court may require appellant to give security for costs.

Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immoveable property within British India independent of the property (if any) to which the appeal relates.

When appellant resides out of British India.

If such security be not furnished within such time as the Court orders, the Court shall reject the appeal.

550. When the memorandum of appeal is registered, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made.

Appellate Court to give notice to Court whose decree is appealed against.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

Transmission of papers to Appellate Court.

Either party may apply in writing to the Court against whose decree the appeal is made, specifying any of such papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited accordingly.

Copies of exhibits in Court whose decree is appealed against.

551. The Appellate Court may, if it thinks fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the Court against whose decree the appeal is made, without sending notice of the appeal to such Court and without serving notice on the respondent or his pleader; but in such case the confirmation shall be notified to the same Court.

Power to confirm decision of lower Court without sending it notice.

552. The Appellate Court, unless where it confirms, under section 551, the decision of the lower Court, shall fix a day for hearing the appeal.

Day for hearing appeal.

Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

553. Notice of the day so fixed shall be stuck up in the appellate court-house, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided in chapter VI for the service on a defendant of a summons to appear and answer; and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice.

Publication and service of notice of day for hearing appeal.

Instead of sending the notice to the Court against whose decree the appeal is made, the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the rules above referred to.

Appellate Court may itself cause notice to be served.

554. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Contents of notice.

Procedure on Hearing.

555. On the day so fixed, or on any other day to which the hearing may be adjourned, the party having the right to begin shall be heard in support of or against the appeal, as the case may be. The other party shall then be heard, and the party having the right to begin shall then be entitled to reply.

Right to begin.

Explanation.—If the appeal is from the whole decree, or if there are cross-appeals, the party having the right to begin is the party who had the right to begin on the hearing in the Court whose decree is appealed from.

If the appeal is from only a portion of the decree, and there is no cross-appeal, the appellant has the right to begin.

556. If on the day so fixed, or any other day to which the hearing may be adjourned, the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

Dismissal of appeal for appellant's default.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

Hearing appeal *ex parte*.

557. If on the day so fixed, or any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed:

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

Provided that no such order shall be passed, although the notice has not been served upon the respondent, if on the day fixed for hearing the appeal the respondent appears in person or by a pleader, or by a duly authorized agent.

Proviso.

558. If an appeal be dismissed under section 556 or section 557, the appellant may apply to the Appellate Court for the re-admission of the appeal; and if it be proved that he was prevented by any sufficient cause from attending when the appeal was called on for hearing or from depositing the sum so required, the Court may re-admit the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-admission of appeal dismissed for default.

559. If it appear to the Court at the hearing that any person who was a party to the suit in the Court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court, and direct that such person be made a respondent.

Power to adjourn hearing, and direct persons appearing interested to be made respondents.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and if it be proved that the respondent was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-hearing on application of respondent against whom *ex parte* decree is made.

561. Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has given to the appellant or his pleader seven days' notice of such objection.

Upon hearing respondent may object to decree as if he had preferred separate appeal.

Such objection shall be in the form of a memorandum, and the provisions of section 541, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

Form of notice, and provisions applicable thereto.

562. If the Court against whose decree the appeal is made has disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties, and the decree upon such preliminary point is reversed in appeal, the Appellate Court may, if it thinks fit, by order remand the case, together with a copy of the order in appeal, to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the register and proceed to investigate the suit on the merits.

Remand of case by Appellate Court.

The Appellate Court may, if it think fit, direct what issue or issues shall be tried in any case so remanded.

563. When a case is remanded with directions to take any evidence so excluded the Court to which the case is remanded shall not take any other evidence in the case, except evidence tendered to contradict the evidence so taken.

When further evidence barred.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

Limit to remand.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall, after re-settling the issues, if necessary, finally determine the case notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

When evidence on record sufficient, Appellate Court shall determine case finally.

566. If the Court against whose decree the appeal is made has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and in such case shall direct such Court to take the additional evidence required,

When Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.

and such Court shall proceed to try such issue, and shall return to the Appellate Court its finding thereon together with the evidence.

Finding and evidence to be put on record.

Objections to finding.

567. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, present a memorandum of objections to the finding.

Determination of appeal.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

Production of additional evidence in Appellate Court.

568. The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if

(*a*) the Court against whose decree the appeal is made refused to admit evidence which ought to have been admitted, or,

(*b*) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause,

the Appellate Court may allow such evidence to be produced, or document to be received, or witness to be examined.

Whenever additional evidence is admitted by an Appellate Court, the Court shall record on its proceedings the reason for such admission.

Mode of taking additional evidence.

569. Whenever additional evidence is allowed to be received, the Appellate Court may either take such evidence, or direct the Court against whose decree the appeal is made, or any other subordinate Court, to take such evidence and to send it when taken to the Appellate Court.

Points to be defined and recorded.

570. In all cases where additional evidence is directed or allowed to be taken, the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Of the Judgment in Appeal.

Judgment when and where pronounced.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

Language of judgment.

572. The judgment shall be written in English; provided that if English is not the mother-tongue of the Judge, and he is not able to write an intelligible judgment in English, the judgment shall be written in his mother-tongue or in the language of the Court.

Translation of judgment.

573. When the language in which the judgment is written is not the language of the Court, the judgment shall, if any party so require, be translated into such language, and the translation, after it has been ascertained to be correct, shall be signed by the Judge or such officer as he appoints in this behalf.

Contents of judgment.

574. The judgment of the Appellate Court shall state—

(*a*) the points for determination;

(*b*) the decision thereupon;

(*c*) the reasons for the decision; and

(*d*) when the decree appealed against is reversed or varied, the relief to which the appellant is entitled,

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.

Date and signature.

Decision when appeal is heard by two or more Judges.

575. When the appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

If there be no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed:

Provided that if the Bench hearing the appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who have heard the appeal, including those who first heard it.

When there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

The High Court may from time to time make rules consistent with this Code to regulate references under this section.

Dissent to be recorded.

576. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

What judgment may direct.

577. The judgment may be for confirming, varying or reversing the decree of the Court against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be passed in appeal, the Appellate Court may pass a decree or order accordingly.

No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

Of the Decree in Appeal.

Contents of decree.

579. The decree of the Appellate Court shall bear date the day on which the judgment was pronounced.

The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify clearly the relief granted or other determination of the appeal.

The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid.

The decree shall be signed and dated by the Judge or Judges who passed it:

Judge dissenting from judgment need not sign decree.

Provided that where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

Copies of judgment and decree to be furnished to parties

580. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Court and at their expense.

Certified copy of decree to be sent to Court whose decree is appealed against.

581. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the register of civil suits.

Appellate Court to have same powers as Courts of original jurisdiction.

582. The Appellate Court shall have the same powers in appeals under this chapter as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under chapter V.

The provisions hereinbefore contained shall apply to appeals under this chapter so far as such provisions are applicable.

Execution of decree of Appellate Court.

583. When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this chapter desires to obtain execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred; and such Court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed for the execution of decrees in suits.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECREES.

Second appeals to High Court.

584. Unless when otherwise provided in this Code or by any other law, from all decrees passed in appeal by any Court subordinate to a High Court, an appeal shall lie to the High Court on any of the following grounds, (namely)—

Grounds of second appeal.

(*a*) the decision being contrary to some specified law or usage having the force of law;

(*b*) the decision having failed to determine some material issue of law or usage having the force of law;

(*c*) a substantial error or defect in the procedure as prescribed by this Code or any other law, which may have produced error or defect in the decision of the case upon the merits.

Second appeal only on grounds mentioned in section 584.

585. No second appeal shall lie except on the grounds mentioned in section 584.

No second appeal in certain suits.

586. No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees.

Provisions as to second appeals

587. The provisions contained in chapter XLI shall apply as far as may be to appeals under this chapter, and to the execution of decrees passed in such appeals.

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

Orders appealable.

588. An appeal shall lie from the following orders under this Code and from no other such orders:—

(*a*) orders under section 20, staying proceedings in a suit,

(*b*) orders under section 32, striking out or adding the name of any person as plaintiff or defendant,

(*c*) orders under section 44, adding a cause of action,

(*d*) orders under section 47, excluding a cause of action,

(*e*) orders rejecting or returning plaints under section 53, clause (*d*), or section 54, clauses (*b*) and (*d*), or section 57, clauses (*b*) and (*c*),

(*f*) orders rejecting applications under section 102 (in cases open to appeal) for an order to set aside the dismissal of a suit,

(*g*) orders under section 120 where a party fails to appear in person,

(*h*) orders under section 168 for attachment of property,

(*i*) orders under section 176 where a party refuses to give evidence or produce a document called for by the Court,

(*j*) orders under section 244, as to questions relating to the execution of decrees, of the same nature with appealable orders made in the course of a suit,

(*k*) orders under section 258 compelling decree-holders to certify,

(*l*) orders under section 261 as to objections to draft-conveyances or draft-endorsements,

(*m*) orders under section 312 for confirming or setting aside a sale,

(*n*) orders in insolvency matters under section 351, 352, 353 or 357,

(*o*) orders rejecting applications under section 370 for dismissal of the suit,

(*p*) orders disallowing objections under section 372,

(*q*) orders as to interpleader-suits under section 473, 475 or 476,

(*r*) orders under section 479, 480, 481, 485, 492, 493, 496, 503,

(*s*) orders under section 514 superseding an arbitration,

(*t*) orders under section 518 modifying an award,

(*u*) orders under any of the provisions of this Code, imposing fines, or for the imprisonment of any person, except when such imprisonment is in execution of a decree,

(*v*) refusals under section 558 to re-admit, or under section 560 to re-hear, an appeal,

(*w*) orders under section 562 remanding a case.

The orders passed in appeals under this section shall be final.

Court which shall hear appeals.

589. An appeal from any order specified in section 588, clause (*n*), shall lie to the High Court.

When an appeal from any other order is allowed by this chapter, it shall lie to the Court to which an appeal would lie from the decree in the suit in relation to which such order was made or, when such order is passed by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

Procedur in appea s from orders

590. The procedure prescribed in chapter XLI shall, so far as may be, apply to appeals from orders under this Code, or under any special or local law in which a different procedure is not provided.

No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

591. Except as provided in this chapter, no appeal shall lie from any order passed by any Court on the exercise of its original or appellate jurisdiction; but if any decree be appealed against, any error, defect or irregularity in any such order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

CHAPTER XLIV.

OF PAUPER APPEALS.

Who may appeal as pauper.

592. Any person entitled under this Code or any other law to prefer an appeal, who is unable to pay the fee required for the petition of appeal, may, on presenting an application accompanied by a memorandum of appeal, be allowed to appeal as a pauper, subject to the rules contained in chapters XXVI, XLI, XLII and XLIII, in so far as those rules are applicable:

Procedure on application for admission of appeal.

Provided that the Court shall reject the application unless upon a perusal thereof and of the judgment and decree against which the appeal is made, it sees reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

Enquiry into pauperism.

593. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the Appellate Court:

Proviso.

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court against whose decree the appeal is made, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such enquiry.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

'Decree' defined.

594. In this chapter, unless there be something repugnant in the subject or context, the expression 'decree' includes also judgment and order.

When appeals lie to Queen in Council.

595. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained—

an appeal shall lie to Her Majesty in Council

(*a*) from any final decree passed on appeal by a High Court or other Court of final appellate jurisdiction,

(*b*) from any final decree passed by a High Court in the exercise of original civil jurisdiction, and

(*c*) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

Value of subject-matter.

596. In each of the cases mentioned in clauses (*a*) and (*b*) of section 595,

the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal must involve some substantial question of law.

Bar of certain appeals.

597. Notwithstanding anything contained in section 595,

no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being;

and no appeal shall lie to Her Majesty in Council from any decree which, under section 586, is final.

Application to Court whose decree is complained of.

598. Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

Time within which application must be made.

599. Such application must ordinarily be made within six months from the date of such decree.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

Certificate as to value or fitness.

600. Every petition under section 598 must state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of section 596, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

Effect of refusal of certificate.

601. If such certificate be refused, the petition shall be dismissed:

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable, within thirty days from the date of the order, to the High Court to which the former Court is subordinate.

Security and deposit required on grant of certificate.

602. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,

(*a*) give security for the costs of the respondent, and

(*b*) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except

(1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being;

(2) papers which the parties agree to exclude;

(3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included, and

(4) such other documents as the High Court may direct to be excluded:

and when the applicant prefers to print in India the copy of the record, except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

Admission of appeal and procedure thereon.

603. When such security has been completed and deposit made to the satisfaction of the Court, the Court may

(*a*) declare the appeal admitted, and

(*b*) give notice thereof to the respondent, and shall then

(*c*) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and

(*d*) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

Revocation of acceptance of security.

604. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

Power to order further security or payment.

605. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

or further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

Effect of failure to comply with order.

606. If the appellant fail to comply with such order, the proceedings shall be stayed,

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,

and in the meantime execution of the decree appealed against shall not be stayed.

Refund of balance of deposit.

607. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section 602.

Powers of Court pending appeal.

608. Notwithstanding the admission of any appeal under this chapter, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs.

But the Court may, if it think fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court—

(*a*) impound any moveable property in dispute or any part thereof, or

(*b*) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or

(*c*) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or

(*d*) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal as it thinks fit.

Increase of security found inadequate.

609. If at any time during the pendency of the appeal, the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security.

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

Procedure to enforce orders of Queen in Council.

610. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.

When any monies expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

Appeal against order relating to execution.

611. The orders made by the Court which enforces or executes the order of Her Majesty in Council relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

Power to make rules.

612. The High Court may, from time to time, make rules consistent with this Act to regulate—

(*a*) the service of notices under section 600,

(*b*) the grant or refusal of certificates under sections 601 and 602 by Courts of final appellate jurisdiction subordinate to the High Court,

(*c*) the amount and nature of the security required under sections 602, 605 and 609,

(*d*) the testing of such security,

(*e*) the estimate of the cost of transcribing the record,

(*f*) the preparation, examination and certifying of such transcript,

(*g*) the revision and authentication of translations,

(*h*) the preparation of indices to transcripts of records, and of lists of the papers not included therein,

(*i*) the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council,

and all other matters connected with the enforcement of this chapter.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

Legalization of existing rules.

613. All rules heretofore made and published by any High Court relating to appeal to Her Majesty in Council and in force immediately before the passing of this Act, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Recorder of Rangoon.

614. In sections 595 and 612, the expression 'High Court' shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

Construction of Bengal Regulation III of 1828, section 4, clause 5.

615. The rules and restrictions referred to in Bengal Regulation III of 1828, section IV, clause *fifth*, shall be deemed to be the rules and restrictions applicable to appeals under this Code from the decisions of the High Court of Judicature at Fort William in Bengal.

Saving of Her Majesty's pleasure.

616. Nothing herein contained shall be understood—

(*a*) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or

and of rules for conduct of business before Judicial Committee.

(*b*) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to Her Majesty in Council, or their conduct before the said Judicial Committee.

And nothing in this chapter applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, nor to appeals from orders and decrees of Prize Courts.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

Reference of question to High Court.

617. If before or on the hearing of a suit or appeal in which the decree is final, or if in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document which construction may affect the merits, arises, on which the Court trying the suit or appeal or executing the decree entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

Court may pass decree contingent upon opinion of High Court.

618. The Court may either stay the proceedings or proceed in the case, notwithstanding such reference, and may pass a decree or order contingent upon the opinion of the High Court on the point referred;

but no execution shall be issued, property sold, or person imprisoned in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon such reference.

Judgment of High Court to be transmitted, and case disposed of accordingly.

619. The High Court shall hear the parties to the case in which the reference is made, in person or by their respective pleaders, and shall decide the point so referred, and shall transmit a copy of its judgment under the signature of the Registrar, to the Court by which the reference was made, and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

Costs of reference to High Court.

620. Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the case.

Power to alter, &c., decrees of Court making reference.

621. When a case is referred to the High Court under this chapter, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed in the case out of which the reference arose, and make such order as it thinks fit.

Power to call for record of cases decided by Small Cause Courts, or, on appeal, by subordinate Courts.

622. The High Court may call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, and may pass such order in the case as the High Court thinks fit.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

Application for review of judgment.

623. Any person considering himself aggrieved—

(*a*) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred;

(*b*) by a decree or order from which no appeal is hereby allowed; or

(*c*) by a judgment on a reference from a Court of Small Causes;

and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the Court which passed the decree or made the order or to the Court, if any, to which the business of the former Court has been transferred.

A party who is not appealing from a decree may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except when the ground of such appeal is common to the applicant and the appellant, or when being a respondent, he can present to the Appellate Court the case on which he applies for the review.

To whom applications for review may be made.

624. Except upon the ground of the discovery of such new and important matter or evidence as aforesaid, or of some clerical error apparent on the face of the decree, no application for a review of judgment, other than that of a High Court, shall be made to any Judge other than the Judge who delivered it.

Form of applications for review.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

Application when rejected.

626. If it appear to the Court that there is not sufficient ground for a review, it shall reject the application.

If the Court be of opinion that the application for the review should be granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion:

Application when granted.

Proviso.

Provided that—

(*a*) no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for; and

(*b*) no such application shall be granted on the ground of discovery of new matter, or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him when the decree or order was passed, without strict proof of such allegation.

627. If the Judge or Judges, or any one of the Judges, who passed the decree or order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

Application for review in Court consisting of two or more Judges.

628. If the application for a review be heard by more than one Judge and the Court be equally divided, the application shall be rejected.

Application when rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. An order of the Court for rejecting the application shall be final, but whenever such application is admitted, the admission may be objected to on the ground that it was

Order of Court final.

(*a*) in contravention of the provisions of section 624,

(*b*) in contravention of the provisions of section 626, or

(*c*) after the expiration of the period of limitation prescribed therefor and without sufficient cause.

Such objection may be made at once by an appeal against the order granting the application, or may be taken in any appeal against the final decree or order made in the suit.

Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and if it be proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court may order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

No order shall be made under this section unless the applicant has served the opposite party with notice in writing of the latter application.

No application to review an order passed on review or on an application for a review shall be entertained.

630. When an application for a review is granted, a note thereof shall be made in the register and the Court may at once re-hear the case or make such order in regard to the re-hearing as it thinks fit.

Registry of application granted, and order for re-hearing.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This chapter applies only to High Courts which are or may hereafter be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*).

This part to apply only to certain High Courts.

632. Except as provided in this Chapter the provisions of this Code apply to such High Courts.

Application of Code to High Courts.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

High Court to record judgments according to its own rules.

634. Whenever a High Court considers it necessary that a decree made in the exercise of its ordinary original civil jurisdiction should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs;

Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

635. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its ordinary original civil jurisdiction or to examine witnesses, except when the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

Attorneys not to address Court, except when authorized

636. Notices to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the ordinary or extraordinary original civil jurisdiction of the High Court, and of its matrimonial, testamentary and intestate jurisdictions, except summonses to defendants issued under section 65, writs of execution, and notices under section 553, may be served by the attorneys in the suit, or by persons employed by them, or by such other persons as the High Court by any rule or order from time to time directs.

Process of High Courts may be served by attorneys in suit.

637. Any non-judicial or quasi-judicial act which this Code requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to do such act.

Non-judicial acts may be done by Registrar.

The High Court may from time to time by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

638. The following portions of this Code shall not apply to the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, namely, sections 16 and 17, sections 54, clauses (*a*) and (*b*), 57, 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 192 (so far as relates to the manner of taking evidence), 198 to 206 (both inclusive), 261, and so much of section 409 as relates to the making of a memorandum,

Sections not applying to High Court in original civil jurisdiction.

and section 579 shall not apply to the High Court in the exercise of its appellate jurisdiction.

Nothing in this Code shall extend or apply to any High Court in the exercise of its jurisdiction as an Insolvent Court.

Code not to affect High Court in exercise of insolvent jurisdiction.

639. The High Court may from time to time frame forms for any proceeding in such Court, and may make rules as to the books, entries and accounts to be kept by its officers.

Power to frame forms.

PART X.

CHAPTER XLIX.

MISCELLANEOUS.

640. Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in court.

Exemption of certain women from personal appearance.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

641. The Local Government may, by notification in the official Gazette, exempt from personal appearance in court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption, and may, by like notification, withdraw such privilege.

Local Government may exempt certain persons from personal appearance.

The names and residences of the persons so exempted shall from time to time be forwarded to the High Court by the Local Government, and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court, subordinate to the High Court, shall be kept in such subordinate Court.

List of names of persons exempted to be kept in subordinate Court.

When any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

Costs of commission rendered necessary by claiming privilege.

642. No Judge, Magistrate or other judicial officer shall be liable to arrest under this Code while going to, presiding in, or returning from his Court.

Persons exempt from arrest.

And, except as hereinafter provided, the parties to a suit and their pleaders and recognized agents shall be exempt from arrest under this Code while going to or attending a Civil Court for the purpose of such suit and while returning from such Court. Witnesses acting in obedience to a summons shall be similarly exempt.

643. When in a case pending before any Court, there appears to the Court sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in section 193, 196, 199, 200, 205, 206, 207, 208, 209, 210, 463, 471, 474, 475, 476 or 477 of the Indian Penal Code, which may be made in the course of any other suit or proceeding or with respect to any document offered in evidence in the case, the Court may cause the person accused to be detained till the rising of the Court, and may then send him in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

Procedure in case of certain offences.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and may bind over any person to appear and give evidence before such Magistrate.

The Magistrate shall receive such charge and proceed with it according to law.

644. Subject to the power conferred on the High Court by section 639 and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the fourth schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

Use of forms in fourth schedule.

645. The language which, when this Code comes into force, is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until the Local Government otherwise orders;

Language of subordinate Courts.

but it shall be lawful for the Local Government from time to time to declare what language shall be the language of every such Court.

646. Whenever the Registrar of a Court of Small Causes has any doubt upon any question of law or usage having the force of law, or as to the construction of a document which construction may

Power of Registrars of Small Cause Courts to state cases.

affect the merits of the decision, he may state a case for the opinion of the Judge; and all the provisions herein contained relative to the stating of a case by the Judge shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

Miscellaneous proceedings.

647. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction other than suits and appeals.

Admission of affidavits as evidence.

The High Court may from time to time make rules to provide for the admission, in such proceedings, of affidavits as evidence of the matters to which such affidavits respectively relate; and such rules, on being published in the local official Gazette, shall have the force of law.

Procedure when person to be arrested or property to be attached is outside the District.

648. If any person to be arrested or any property to be attached under this Code, resides or is situate outside the District within which the Court issuing the warrant of arrest or making the order of attachment is situate, such Court shall send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate, a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment,

and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued.

Rules applicable to all civil process for arrest, sale or payment.

649. The rules contained in chapter XIX shall apply to the execution of any judicial process for the arrest of a person or the sale of property or payment of money, which may be desired or ordered by a Civil Court in any civil proceeding.

Application of rules as to witnesses.

650. The provisions of chapters XIV and XV relating to witnesses shall apply to all persons required to give evidence, or to produce documents in any proceeding under this Code.

Penalty for escaping from custody under Code.

651. Whoever offers any resistance or illegal obstruction to the lawful apprehension of himself under this Code, or under the warrant of any Court of Civil Judicature, or escapes or attempts to escape from any custody in which he is lawfully detained under this Code or under such warrant, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Power to make subsidiary rules of procedure.

652. The High Court may from time to time make rules consistent with this Code to regulate any matter connected with the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

THE FIRST SCHEDULE.

(*See section* 3).

A.—STATUTE REPEALED.

Year and chapter.	Title.	Extent of repeal.
29 Char. II. chap. 7 ...	An Act for the better observance of the Lord's day commonly called Sunday.	The whole.

B.—ACTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
IX of 1840 ...	For amending the law administered in Her Majesty's Courts of Justice with reference to Arbitrations, Damages, and interested Witnesses.	So much as has not been repealed.
XXIII of 1840 ...	For executing within the local limits of the jurisdiction of Her Majesty's Courts legal Process issued by authorities in the Mufassal.	So far as it relates to the execution of the process of Civil Courts.
VIII of 1841 ...	Interpleader	The whole.
XXVI of 1841 ...	Extending 3 & 4 Wm. IV, c. 42 ...	So much as has not been repealed.
XIV of 1848 ...	Commissions for taking affidavits ...	The whole.
XVII of 1852 ...	Special cases	The whole.
XXXIII of 1852 ...	Enforcement of judgments ...	The whole Act, except so far as it relates to the decrees of Military Courts of Requests.
VI of 1855 ...	Writs of execution	The whole.
XXXIV of 1855 ...	Execution of judgments	The whole.
VIII of 1859 ...	For simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.	So much as has not been repealed.
XXIII of 1861 ...	To amend Act VIII of 1859 ...	So much as has not been repealed.
XX of 1862 ...	To provide for the levy of Fees and Stamp-duties in the High Court, &c.	So much as has not been repealed.
XXIV of 1862 ...	To continue in force Act XX of 1862	So much as has not been repealed.
IX of 1863 ...	To amend the Code of Civil Procedure	The whole.

THE FIRST SCHEDULE.

ACTS REPEALED—*continued.*

Number and year.	Subject or title.	Extent of repeal.
XVIII of 1863 ...	To make provision for the speedy and efficient disposal of the business, &c.	So much as has not been repealed.
XXXII of 1863 ...	To continue in force Act XX of 1862 ...	So much as has not been repealed.
XI of 1865 ...	Mufassal Small Cause Courts Act ...	Sections 8, 9, 10, 11, para. 2, 22, 23, 24, 25, 26, 27, 28, 42 and 47, and in section 32 the words "in the manner prescribed in the twenty-second section of this Act" and "contained in the twenty-second, twenty-third, twenty-fourth and twenty-fifth sections of this Act."
XIV of 1865 ...	Central Provinces Courts Act ...	Sections 17 and 18.
XIX of 1865 ...	Panjáb Courts Act	Sections 13 and 17.
V of 1866 ...	To provide a summary procedure on Bills of Exchange, &c.	In the title, the words '*to provide a summary procedure on Bills of Exchange and*'
		The preamble down to and including the words 'Notes; and'
		In section 1, the definitions of 'High Court' and 'Local Government.'
		Sections two to eight (both inclusive).
		Section fourteen.
XXIV of 1866 ...	High Court, North-Western Provinces	So much as has not been repealed.
X of 1867 ...	References by Mufassal Small Cause Courts.	The whole.
XXVI of 1867 ...	To amend the law relating to Stamp Duties.	So much as has not been repealed.
XV of 1869 ...	Prisoners' Testimony Act ...	So much of sections 15 and 16 as relates to process issued by a Civil Court.
IX of 1873 ...	Panjáb Appeals Act, 1873 ...	Sections 9 and 10.
VI of 1874 ...	The Privy Council Appeals Act, 1874...	The whole.

C.—REGULATIONS REPEALED.

Bengal Regulation XX of 1810.	Cantonments	So much of section XIX as relates to civil process.
Madras Regulation XIV of 1816.	Vakíls	Section 27.

THE SECOND SCHEDULE.

(See section 5).

Chapters and Sections of this Code extending to Mufassal Courts of Small Causes.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.
CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).
CHAPTER III.—Of Parties and their Appearances, Applications and Acts.
CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule *a*.
CHAPTER V.—Of the Institution of Suits.
CHAPTER VI.—Of the Issue and Service of Summons, except section 77.
CHAPTER VII.—Of the Appearance of the Parties and consequence of Non-appearance.
CHAPTER VIII.—Section 111, Set-off.
CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.
CHAPTER X.—Of Discovery and the Admission, &c., of Documents.
CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.
CHAPTER XIII.—Of Adjournments.
CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.
CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).
CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.
CHAPTER XVIII.—Sections 220, 221 and 222, of Costs.
CHAPTER XIX.—Of the Execution of Decrees, sections 230 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 280 (both inclusive), 283, 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).
CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
CHAPTER XXIII.—Of Payment into Court.
CHAPTER XXIV.—Of requiring Security for Costs.
CHAPTER XXV.—Of Commissions.
CHAPTER XXVI.—Suits by Paupers.
CHAPTER XXVII.—Suits by and against Government or Government Servants.
CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except the first paragraph of section 433.
CHAPTER XXIX.—Suits by and against Corporations and Companies.
CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.
CHAPTER XXXII.—Suits by and against Military Men.
CHAPTER XXXIII.—Interpleader.
CHAPTER XXXIV.—Of Arrest and Attachment before Judgment.
CHAPTER XXXVII.—Reference to Arbitration, sections 506 to 522 (both inclusive).
CHAPTER XXXVIII.—Of proceedings on Agreement of Parties.
CHAPTER XLVI.—Reference to and Revision by High Court.
CHAPTER XLVII.—Of Review of judgment.
CHAPTER XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), section 648 (so far as relates to arrests), sections 649 to 652 (both inclusive).

THE THIRD SCHEDULE.

(See section 7).

Bombay Enactments.

Bombay Regulation XXIX, 1827.
" " VII, 1830.
" " I, 1831.
" " XVI, 1831.
Act XIX of 1835.
" XIII of 1842.

THE FOURTH SCHEDULE.

(*See section* 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PART I. PLAINTS.

No. 1.

FOR MONEY LENT.

IN THE COURT OF AT

Civil Suit No.

A. B. of

against

C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , he lent the defendant rupees repayable on demand [*or* on the day of].

2. That the defendant has not paid the same, except rupees paid on the day of 18 .

[*If the plaintiff claims exemption from any law of limitation, say*:—

3. The plaintiff was a minor [*or* insane] from the day of till the day of].

4. The plaintiff prays judgment for rupees, with interest at per cent. from the day of 18 .

[NOTE.—The object of stating when the debt is to be repaid is merely to fix a date for interest. If, therefore interest is not claimed, the statement may be omitted.]

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(*Title.*)

A. B., and *G. H.*, the above-named plaintiffs, state as follows:—

1. That on the day of 18 , at , the defendant received rupees [*or* a cheque on the Bank for Rs.] from one *E. F.* for the use of the plaintiffs.

2. That the defendant has not paid [*or* delivered] the same accordingly.

3. The plaintiffs pray judgment for rupees, with interest at per cent. from the day of 18 .

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at he and *E. F.*, since deceased, delivered to the defendant [*one thousand barrels of flour, five hundred maunds of rice, or as the case may be*] for sale upon commission.

2. That on the day of 18 [*or*, on some day unknown to the plaintiff, before the day of 18], the defendant sold the said merchandise for rupees.

3. That the commission and expenses of the defendant thereon, amount to rupees.

4. That on the day of 18 , the plaintiff demanded from the defendant the proceeds of the said merchandise.

5. That he has not paid the same.

[*Demand of judgment.*]

No. 4.

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at annas per tola of fine silver.

2. That the plaintiff procured the said bars to be assayed by one *E. F.*, who was paid by the defendant for such assay, and that the said *E. F.* declared each of the said bars to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant Rs. annas therefor.

3. That each of the said bars did contain only 1,200 tolas of fine silver.

4. That the defendant has not repaid the sum so overpaid.

[*Demand of judgment.*]

[NOTE.—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , at the request [*or* by the authority] of the defendant, the plaintiff paid to one *E. F.* rupees.

2. That, in consideration thereof, the defendant promised [*or* became bound] to pay the same to the plaintiff on demand [*or as the case may be.*]

3. That [on the day of 18 , the plaintiff demanded payment of the same from the defendant, but] he has not paid the same.

[*Demand of judgment.*]

[NOTE.—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.* of deceased sold and delivered to the defendant [one hundred barrels of flour, *or*, the goods mentioned in the schedule hereto annexed, *or*, sundry goods].

2. That the defendant promised to pay rupees for the said goods on delivery [*or* on the day of *some day before the plaint was filed*].

3. That he has not paid the same.

4. That the said *E. F.* in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5. That on the day of 187 the said *E. F.* died.

6. That on the day of probate of the said will was granted to the plaintiff by the Court of .

7. The plaintiff as executor as aforesaid [*Demand of judgment*].

[NOTE.—If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.]

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff sold and delivered to the defendant [*sundry articles of house furniture*] but no express agreement was made as to the price.

2. That the same were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

[NOTE.—The law implies a promise to pay so much as the goods are reasonably worth.]

No. 8.

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at plaintiff sold to the defendant [*one hundred barrels of flour*] and, at the request of the defendant, delivered the same to one *E. F.*

2. That the defendant promised to pay to the plaintiff rupees therefor.

3. That he has not paid the same.

[*Demand of judgment.*]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff furnished to [*Mary Jones*] the wife of *James Jones* deceased, at her request, sundry articles of [*food and clothing*], but no express agreement was made as to the price.

2. That the same were necessary for her.

3. That the same were reasonably worth rupees.

4. That the said *James Jones* refused to pay the same.

5. That the defendant is the executor of the last will of the said *James Jones*.

[*Demand of judgment.*]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold to *E. F.* of deceased [*all the crops then growing on his farm in*].

2. That the said *E. F.* promised to pay the plaintiff rupees for the same.

3. That he did not pay the same.

4. That the defendant is administrator of the estate of the said *E. F.*

[*Demand of judgment.*]

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.* of sold to the defendant [*all the fruit growing in his orchard in*], but no express agreement was made as to the price.

2. That the same was reasonably worth rupees.

3. That the defendant has not paid the same.

4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the plaintiff committee of his estate with the usual powers for the management thereof.

5. The plaintiff as committee as aforesaid [*Demand of judgment.*]

[NOTE.—When the lunatic's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 4 and 5 substitute the following:—]

4. That on the day of the Civil Court of duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs and appointed the plaintiff Manager of his estate.

5. The plaintiff as Manager as aforesaid [*Demand of judgment.*]

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.* of agreed with the plaintiff that the plaintiff should make for him [*six tables and fifty chairs*], and that the said *E. F.* should pay for the same upon delivery thereof rupees.

2. That the plaintiff made the said goods, and on the day of 18 offered to deliver the same to the said *E. F.*, and has ever since been ready and willing so to do.

3. That the said *E. F.* has not accepted the said goods or paid for the same.

4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the defendant committee of his estate.

5. The plaintiff prays judgment for rupees with interest from the day of , at the rate of per cent. per annum, to be paid out of the estate of the said *E. F.* in the hands of the defendant.

No. 13.

FOR DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff put up at auction sundry [*articles of merchandise*], subject to the condition that all goods not paid for and removed by the purchaser thereof, within [*ten days*] after the sale, should be re-sold by auction on his account of which condition the defendant had notice.

2. That the defendant purchased [*one crate of crockery*] at the said auction at the price of rupees.

3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for [*ten days*] thereafter, of which the defendant had notice.

4. That the defendant did not take away the said goods purchased by him, nor pay therefor, within [*ten days*] after the sale, nor afterwards.

5. That on the day of 18 , at , the plaintiff re-sold the said [*crate of crockery*], on account of the defendant, by public auction, for rupees.

6. That the expenses attendant upon such re-sale amounted to rupees.

7. That the defendant has not paid the deficiency thus arising, amounting to rupees.

[*Demand of judgment.*]

NOTE to § 4. Unless the seller agreed to deliver, the purchaser must fetch the goods. See Act IX of 1872, sec. 93.]

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of *or*, a farm known as , in *or*, a piece of land lying, *&c.*]

2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, *or* farm, *or* land].

3. That he has not paid the same.

[*Demand of judgment.*]

NOTE.—Where there has been no actual conveyance, say, in § 1, "sold to the defendant the house, &c., and placed him in possession of the same."]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVEABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No. in the town of , *or* one hundred bighás of land in , bounded by the East Indian railroad, and by other lands of the plaintiff] for rupees.

2. That on the day of 18 , at , the plaintiff tendered [*or*, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.

3. That the defendant has not paid the said sum.

[*Demand of judgment.*]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].

2. That from the [said day] until the day of 18 , the plaintiff served the defendant as his clerk].

3. That the defendant has not paid the said salary.

[*Demand of judgment.*]

No. 17.

FOR SERVICES AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That between the day of 18 , and the day of 18 , at , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.

2. That the said services were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at plaintiff [furnished the paper for and printed one thousand copies of a book called for the defendant, at his request [and delivered the same to him].

2. That the defendant promised to pay rupees therefor.

3. That he has not paid the same.

[*Demand of judgment.*]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff built a house [known as No. , in], and furnished the materials therefor, for the defendant, at his request; but no express agreement was made as to the price to be paid for such work and materials.

2. That the said work and materials were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 20.

FOR RENT RESERVED IN A LEASE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into a covenant with the plaintiff, under their hands, a copy of which is hereto annexed.

[*Or state the substance of the agreement.*]

2. That the defendant has not paid the rent of the [month] ending on the day of 18 , amounting to rupees.

[*Demand of judgment.*]

Another Form.

1. That the plaintiff let to the defendant a house No. 27 Chowringhee for seven years to hold from the day of 187 at rupees a year, payable quarterly.

2. That of such rent quarters are due and unpaid.

[*Demand of judgment.*]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant hired from the plaintiff [the house No. , street], at the rent of rupees, payable on the first days of .

2. That the defendant occupied the said premises from the day of 18 to the day of 18 .

3. That the defendant has not paid rupees, being the part of said rent due on the first day of 18 .

[*Demand of judgment.*]

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(*Title.*)

A. B., the above-named plaintiff, executor of the will of *X. Y.*, deceased, states as follows:—

1. That the defendant occupied the [house No , street], by permission of the said *X. Y.*, from the day of 18 , until the day of 18 and no agreement was made as to payment for the use of the said premises.

2. That the use of the said premises for the said period was reasonably worth rupees.

3. That the defendant has not paid the same.

4. The plaintiff as such executor as aforesaid prays judgment for rupees.

No. 23.

FOR BOARD AND LODGING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That from the day of 18 , until the day of 18 , the defendant occupied certain rooms in the house [No. , street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessaries.

2. That in consideration thereof, the defendant promised to pay, [*or* that no agreement was made as to payment for such meat, drink, attendance or necessaries, but the same were reasonably worth] the sum of rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 24.

FOR FREIGHT OF GOODS.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff transported in [his barge, *or otherwise*] [one thousand barrels of flour, *or* sundry goods], from to , at the request of the defendant.

2. That the defendant promised to pay the plaintiff the sum of [one rupee per barrel] as freight thereon. [*Or*, that no agreement was made as to payment for such transportation, but that such transportation was reasonably worth rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 25.

FOR PASSAGE-MONEY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff conveyed the defendant [in his ship, called the] from to at his request.

2. That the defendant promised to pay the plaintiff rupees therefor. [*or* that no agreement was made as to the price of the said passage; but that the said passage was reasonably worth rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 26.

ON AN AWARD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators [*or*, entered into an agreement, a copy of which is hereto annexed.]

2. That on the day of 18 , at , the said arbitrators awarded that the defendant should [pay the plaintiff rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

[NOTE.—This will apply where the agreement to refer is not filed in Court.]

No. 27.

ON A FOREIGN JUDGMENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , in the State [*or* Kingdom] of , the Court of that State [*or* Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.

2. That the defendant has not paid the same.

[*Demand of judgment.*]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.

2. That afterwards, on the day of 187 , the sum of rupees for of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[*Demand of judgment.*]

No. 29.

PAYEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of , 18 , at , the defendant by his promissory note now overdue, promised to pay to the plaintiff rupees [days] after date.

2. That he has not paid the same [except rupees, paid on the day of 18].

[*Demand of judgment.*]

[NOTE.—*Where the note is payable after notice, for paras.* 1 *and* 2 *substitute*—]

1. That on the day of at the defendant by his promissory note promised to pay to the plaintiff rupees months after notice.

2. That notice was afterwards given by the plaintiff to the defendant to pay the same months after the said notice.

3. That the said time for payment has elapsed, but the defendant has not paid the same.

[*Where the note is payable at a particular place, say*—]

1.—That on the day of 187 at the defendant by his promissory note now overdue promised to pay to the plaintiff [at Messrs. *A. and Co.*, Madras] rupees months after date.

2.—That the said note was duly presented for payment [at Messrs. *A. and Co.*] aforesaid, but has not been paid.

Written statement of the Defendant.

In the Court, &c.

C. D., the above-named defendant, states as follows:—

1. The defendant made the note sued upon under the following circumstances: The plaintiff and defendant had for some years been in partnership as indigo manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, that the defendant should take over the whole of the partnership assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.

2. The plaintiff thereupon undertook to examine the partnership books and enquire into the state of the partnership assets and liabilities; and he did accordingly examine the said books and make the said enquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact was that the assets of the firm were less than Rs. 50,000 and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the second para. of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

No. 30.

FIRST INDORSEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his promissory note, now overdue, promised to pay to the order of *E. F.* [*or* to *E. F.* or order] rupees [days after date].

2. That the said *E. F.* indorsed the same to the plaintiff.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. [*As in the preceding form.*]

2. That the same was, by the indorsement of the said *E. F.* and of *G. H.* and *I. J.* [*or* and others] transferred to the plaintiff.

[*Demand of judgment.*]

No. 32.

FIRST INDORSEE AGAINST FIRST INDORSER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *E. F.*, on the day of 18 , at , by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.

2. That the defendant indorsed the same to the plaintiff.

3. That on the day of 18 the same was duly presented for payment, but was not paid.

[*Or state facts excusing want of presentment.*]

4. That the defendant had notice thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one *E. F.* a promissory note, now overdue, made [*or* purporting to have been made] by one *G. H.*, on the day of 18 , at , to the order of the defendant, for the sum of rupees [payable days after date].

2. That the same was by the indorsement of the said *E. F.*, [and others] transferred to the plaintiff. [*Or*, that the said *E. F.* indorsed the same to the plaintiff.]

3, 4 *and* 5. [*Same as* 3, 4 *and* 5 *of the preceding form.*]

[*Demand of judgment.*]

No. 34.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to him a promissory note, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant.

2, 3 *and* 4. [*As in No.* 33.]

[*Demand of judgment.*]

No. 35.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(*Title*).

A. B., the above-named plaintiff, states as follows:—

1. That a promissory note, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.

2, 3 *and* 4. [*As in No* 33.]

[*Demand of judgment.*]

No. 36.

SUBSEQUENT INDORSEE AGAINST MAKER, FIRST AND SECOND INDORSER.

IN THE COURT OF AT

Civil Suit No.

A. B. of
against
C. D. of
E. F. of
and
G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, *C. D.*, by his promissory note, now overdue, promised to pay to the order of the defendant, *E. F.*, rupees [months after date].

2. That the said *E. F.* indorsed the same to the defendant, *G. H.*, who indorsed it to the plaintiff.

3. That on the day of 18 , the same was presented [*or state facts excusing want of presentment*] to the said *C. D.* for payment, but was not paid.

4. That the said *E. F.* and *G. H.* had notice thereof.

5. That they have not paid the same.

[*Demand of judgment.*]

No. 37.

DRAWER AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees [days after date, *or* sight thereof].

2. That the defendant accepted the said bill. [*If the bill is payable at a certain time after sight, the date of acceptance should be stated, otherwise it is not necessary.*]

3. That he has not paid the same.

4. That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

[*Demand of judgment.*]

[NOTE.—Where the bill is payable to a third party, for paras. 1, 2, 3, say—]

1. That on &c., at &c., by his bill of exchange, now overdue, directed to the defendant the plaintiff required the defendant to pay to *E. F.* or order rupees months after date.
2. That the plaintiff delivered the said bill to the said *E. F.* on
3. That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

No. 38.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the plaintiff rupees after sight thereof.
2. That he has not paid the same.

[*Demand of judgment.*]

No. 39.

FIRST INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the order of one *G. H.* rupees after sight thereof.
2. That the said *G. H.* indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 40.

SUBSEQUENT INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [*As in the preceding form, to the end of art.* 1.]
2. That by the indorsement of the said *G. H.* [and others], the same was transferred to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his bill of exchange, directed to *E. F.*, required the said *E. F.* to pay to the plaintiff rupees [days after sight].
2. That on the day of 18 , the same was duly presented to the said *E. F.* for acceptance, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

[NOTE.—Notice of dishonour by non-acceptance must be given at once.]

No. 42.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at requiring one *G. H.* to pay to the order of the defendant rupees [days] after sight [*or* after date, *or* at sight] thereof, [and accepted by the said *G. H.* on the day of 18 .]
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 43.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one *E. F.*, a bill of exchange, now overdue, made [*or* purporting to have been made] by one *G. H.*, on the day of 18 , at requiring one *I. J.* to pay to the order of the defendant rupees days after sight thereof [*or otherwise*], and accepted by the said *I. J.* on the day of 18 . [*This clause may be omitted, if not according to the fact.*]
2. That the same was, by the indorsement of the said *E. F.* [and others], transferred to the plaintiff.
3. That on the day of 18 the same was presented to the said *I. J.* for payment, and was dishonoured.
4. That the defendant had due notice thereof.
5. That he has not paid the same.

[*Demand of judgment.*]

No. 44.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to plaintiff a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.* to pay to the order of *I. J.* rupees days after sight thereof [*or otherwise*], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 45.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.*, to pay to the order of one *I. J.* rupees days after sight thereof [*or otherwise*], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 46.

INDORSEE AGAINST DRAWER, ACCEPTOR AND INDORSER.

IN THE COURT OF AT

Civil Regular No.

A. B. of
against
C. D. of
E. F. of
G. H. of

A, B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, *C. D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.*, rupees [days after sight thereof].

2. That on the day of 18 , the said *E. F.* accepted the same.

3. That the said *G. H.* indorsed the same to the plaintiff.

4. That on the day of 18 , the same was presented to the said *E. F.* for payment, and was dishonoured.

5. That the other defendants had due notice thereof.

6. That they have not paid the same.

[*Demand of judgment.*]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bill of exchange drawn in Calcutta, required one *E. F.* to pay to the plaintiff in [London] pounds sterling, [sixty days] after sight thereof.

2. That on the day of 18 , the same was presented to the said *E. F.* for acceptance, and was dishonoured, and was thereupon duly protested.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

[5. That the value of pounds sterling, at the time of the service of notice of protest on the defendant, was rupees annas.]

Wherefore the plaintiff demands judgment against the defendant for rupees, with [ten per centum] compensation and interest from the day of 18

No. 48.

PAYEE AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. F.*, by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff rupees after date [or days after sight] thereof.

2. That on the day of 18 , the defendant accepted the said bill.

3. That he has not paid the same.

[*Demand of judgment.*]

[NOTE.—This form omits to state the delivery of the bill to the plaintiff or his title to sue. See *Churchill v Gardner*, 7 T. R. 596.]

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*, had an interest in] the ship at the time of its loss, as hereafter mentioned.

2. That *on the* day of 18 , at , the defendants, in consideration of rupees to them paid [*or*, which the plaintiff then promised to pay], executed to him a policy of insurance upon *the said ship*, a copy of which is hereto annexed; [*or*, whereby they promised to pay to the plaintiff, within days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during its next voyage from to , whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding rupees].

3. That the said vessel, while proceeding on the voyage mentioned in the said policy, was on the day of 18 , totally lost by the perils of the sea [*or, otherwise*].

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 18 , he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendants have not paid the said loss.

[*Demand of judgment.*]

No. 50.

ON CARGO, LOST BY FIRE:—VALUED POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*, had an interest in] [one hundred bales of cotton] on board the ship at the time of its loss as hereafter mentioned.

2. That on the day of 18 , at , the defendant, in consideration of rupees which the plaintiff then paid [*or*, promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed; [*or*, whereby it promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, *of the said* goods before their landing at ; *or*, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should exceed per centum of the whole value of the goods].

3. That on the day of 18 , at , while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire.

4 *and* 5. [*As in paragraphs* 5 *and* 6 *of the last preceding Form.*]

Demand of judgment.]

No. 51.

ON FREIGHT:—VALUED POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff had an interest in the freight to be earned by the ship [ ] on her voyage from to , at the time of her loss as hereafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.

2. That on the day of 18 , at , the defendant in consideration of rupees to it paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [*or state its tenor, as before*].

3. That the said vessel, while proceeding upon the voyage mentioned in the said policy, was, on the day of 18 , totally lost by [the perils of the sea].

4. That the plaintiff has not received any freight from the said vessel, nor did she earn any on the said voyage, by reason of her loss as aforesaid.

5 *and* 6. [*As in Form No.* 50.]

[*Demand of judgment.*]

No. 52.

FOR A LOSS BY GENERAL AVERAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*, had an interest in] [one hundred bales of cotton] shipped on board a vessel called the *Y. Z.*, from to , at the time of the loss hereafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [*or state its tenor, as before.*]

3. That on the day of 18 , while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea, that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

4. That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of rupees.

5. That on the day of 18 , he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[*Demand of judgment.*]

No. 53.

FOR A PARTICULAR AVERAGE LOSS.

(*Title.*)

A. B., the above named plaintiff, states as follows:—

1 *and* 2. [*As in the preceding Form.*]

3. That on the day of 18 , while on the high seas, the sea-water broke into the said ship, and damaged the said [cotton] to the amount of rupees.

4 *and* 5. [*As in paragraphs* 5 *and* 6 *of the preceding Form.*]

[*Demand of judgment.*]

No. 54.

ON A FIRE INSURANCE POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff [was the owner of, *or*] had an interest in a [dwelling-house, known as No. , street, in the city of ,] at the time of its destruction [*or*, injury] by fire as hereinafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [to it paid], the defendant executed to the plaintiff a policy of insurance on the said [premises], a copy of which is hereto annexed [*or state its tenor*].

3. That on the day of 18 , the said [dwelling-house] was totally destroyed [*or*, greatly damaged] by fire.

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 18 , he furnished the defendant with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[*Demand of judgment.*]

No. 55.

AGAINST SURETIES FOR PAYMENT OF RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. F.* hired from the plaintiff, for the term of years, the [house No. street,], at the annual rent of rupees, payable [monthly].

2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said *E. F.*, to guarantee the punctual payment of the said rent.

3. That the rent aforesaid for the month of 18 , amounting to rupees, has not been paid.

[*If, by the terms of the agreement, notice is required to be given to the surety, add:*—]

4. That on the day of 18 , the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or* That on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of rupees then paid, and of the further sum of ten thousand rupees payable as hereafter mentioned, he would, on the day of 18 , at , execute to the plaintiff a sufficient conveyance of [the house No. street, in the city of free from all incumbrances; and the plaintiff agreed to pay ten thousand rupees for the same on delivery thereof]

2. That on the day of 18 , the plaintiff demanded the conveyance of the said property from the defendant and tendered rupees to the defendant [*or*, that all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.]

3. That the defendant has not executed any conveyance of the said property to the plaintiff [*or* That there is a mortgage upon the said property, made by to , for rupees, registered in the office of , on the day of 18 , and still unsatisfied, *or any other defect of title*].

4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

The plaintiff prays judgment for rupees compensation.

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or* that on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff, forty bighás of land in the village of , for rupees].

2. That on the day of 18 , at , the plaintiff being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [*or*, was ready and willing, and offered to convey the same to the defendant by a sufficient instrument,] on the payment by the defendant of the said sum.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That by an agreement dated the day of 187 , it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of rupees, upon the terms and conditions following (that is to say)—

(*a*) That the defendant should pay the plaintiff a deposit of rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the day of 187 , on which day the said purchase should be completed.

(*b*) That the plaintiff should deduce and make a good title to the said premises on or before the day of 187 , and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[*Demand of judgment.*]

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the day of 18 ,] and that the plaintiff should pay therefor rupees on delivery.

2. That on the [said] day, the plaintiff was ready and willing, and offered, to pay the defendant the said sum upon delivery of the said goods.

3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[*Demand of judgment.*]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, *or* in the capacity of foreman, *or as the case may be*], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services rupees [monthly].

2. That on the day of 18 , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.

3. That on the day of 18 , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[*Demand of judgment.*]

No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. [*As in last preceding Form.*]

2. That on the day of 18 , at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.

3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[*Demand of judgment.*]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at [an annual] compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year.]

2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 18 offered so to do].

3. That the defendant [entered upon the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 18 , he] refused to serve the plaintiff as aforesaid.

[*Demand of judgment.*]

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed :

[*Or state the tenor of the contract.*]

[2. That the plaintiff duly performed all the conditions of the said agreement on his part.]

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[*Demand of judgment.*]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed :

[*Or state the tenor of these covenants.*]

2. That after the making of the said agreement the plaintiff received the said [*apprentice*] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 18 , the said [*apprentice*] wilfully absented himself from the service of the plaintiff, and continues so to do.

[*Demand of judgment.*]

* The form given in Act XIX of 1850 requires the seal of the father or guardian.

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement with the plaintiff and his father, *E. F.*, under their hands and seals, a copy of which is hereto annexed.

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not [instructed the plaintiff in the business of , *or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment.*]

[*Demand of judgment.*]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff employed one *E. F.* as a clerk.

2. That on the day of 18 , at , the defendant agreed with the plaintiff, that if the said *E. F.* should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

[*Or*, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of rupees, conditioned that if the said *E. F.* should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void, but not otherwise.]

[*Or*, 2. That at the same time and place, the defendant executed to the plaintiff a bond, a copy of which is annexed.]

3. That between the day of 18 and the day of 18 , the said *E. F.* received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[*Demand of judgment.*]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by an instrument in writing, let to the plaintiff [the house No. street,] for the term of years, covenanting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the day of during the said term, one *E. F.*, who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of *G. H.* and *I. J.* by such removal.]

[*Demand of judgment.*]

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him rupees therefor.

2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which would otherwise have accrued to him while the engine was under repair.

[*Demand of judgment.*]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(*Title.*)

A. B., the above named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, being partners in trade under the firm of *A. B.* and *C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. That the plaintiff duly performed all the conditions of the said agreement on his part.

3. That on the day of 18 [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at , upon a debt due from the said firm to the said *E. F.*, and on the day of 18] the plaintiff paid rupees [in satisfaction of the same].

4. That the defendant has not paid the same to the plaintiff.

[*Demand of judgment.*]

No. 70.

BY SHIP-OWNER AGAINST FREIGHT OR FOR NOT LOADING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

[*Or*, 1. That on , at , the plaintiff and defendant agreed by charter party that the defendant should deliver to the plaintiff's ship at , on the day of 18 , five hundred tons of merchandise, which she should carry to , and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage, if required, at rupees per day.]

2. That at the time fixed by the said agreement the plaintiff was ready and willing and offered to receive [the said merchandise, *or*, the merchandise mentioned in the said agreement] from the defendant.

3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant entered upon certain land of the plaintiff, known as [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[*Demand of judgment.*]

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant entered a dwelling-house of the plaintiff called , and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[*Demand of judgment.*]

No. 73.

FOR TRESPASS ON MOVEABLES.

(*Title*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street [*or* seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, *or as the case may be*], and carried away the same and disposed of them to his own use:

[*or*, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.]

2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [*otherwise state the injury according to the facts*].

[*Demand of judgment.*]

No. 74.

FOR THE CONVERSION OF MOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff was in possession of certain goods described in the schedule hereto annexed [*or* of one thousand barrels of flour].

2. That on that day, at , the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[*Demand of judgment.*]

The Schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, in consideration of the payment to him of rupees [*or*, rupees per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour], and to deliver the same to the plaintiff on payment of the said sum.

2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].

3. That on the day of 18 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [*or*, the full amount of storage due thereon], but the defendant refused to deliver the same.

4. That the plaintiff was thereby prevented from selling the said goods to *E. F.*, and the same are lost to the plaintiff.

[*Demand of judgment.*]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.

3. That the said representations were false [*or, state the particular falsehoods*], and were then known by the defendant to be so.

4. That the defendant has not paid for the said goods. [*Or, if the goods were not delivered*] That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.

[*Demand of judgment.*]

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant represented to the plaintiff, that one *E. F.* was solvent and in good credit, and worth rupees over all his liabilities [*or*, that *E. F.* then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. That the plaintiff was thereby induced to sell to the said *E. F.* [rice] of the value of rupees [on month's credit].

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [*or*, to deceive and injure the plaintiff].

4. That the said *E. F.* [did not pay for the said goods at the expiration of the credit aforesaid, *or*,] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[*Demand of judgment.*]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called and situate in , and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.

2. That on the day of 18 , the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3. That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[*Demand of judgment.*]

No. 79.

FOR CARRYING ON A NOXIOUS MANUFACTURE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called situate in

2. That ever since the day of 18 , the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.

3. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.

4. That by reason of the premises the plaintiff was unable to depasture the said lands with cattle and sheep, as he otherwise might have done, and was obliged to remove his cattle, sheep and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[*Demand of judgment.*]

No. 80.

FOR OBSTRUCTING A WAY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at the time hereafter mentioned was, possessed of [a house in the town of].

2. That he was accustomed to pass [with vehicles, *or*, on foot] along a certain way leading from his said house to [the highway].

3. That on the day of 18 , the defendant obstructed the said way, so that the plaintiff could not pass [with vehicles, *or*, on foot, *or*, in any manner] along the said way [and has ever since obstructed the same].

4. [*State special damage, if any.*]

[*Demand of judgment.*]

Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from to so as to obstruct it.

2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [*or*, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[*Demand of judgment.*]

No. 81.

FOR DIVERTING A WATER-COURSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream], known as the , in the village of , district of

2. That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3. That on the day of 18 , the defendant, by cutting the bank of the said stream, diverted the water thereof, so that less water ran into the plaintiff's mill.

4. That by reason thereof, the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[*Demand of judgment.*]

No. 82.

FOR OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, *&c.*, and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2. That on the day of the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by obstructing and diverting the said stream.

[*Demand of judgment.*]

No. 83.

FOR WASTE BY A LESSEE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant hired from him the [house No. street] for the term of

2. That the defendant occupied the same under such hiring.

3. That during the period of such occupation, the defendant greatly injured the premises [defaced the walls, tore up the floors, and broke down the doors; *or otherwise specify the injuries as far as possible*].

The plaintiff prays judgment for rupees compensation.

No. 84.

FOR ASSAULT AND BATTERY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant assaulted and beat him.

The plaintiff prays judgment for rupees compensation.

No. 85.

FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted and beat the plaintiff, until he became insensible.

2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay rupees for medical attendance, and has been ever since disabled [from using his right arm]. [*Or otherwise state the damage, as the case may be.*]

[*Demand of judgment.*]

No. 86.

FOR ASSAULT AND FALSE IMPRISONMENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted the plaintiff and imprisoned him for days [*or* hours]; [*state special damage, if any, thus*:—]

2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment, [*or otherwise as the case may be*].

[*Demand of judgment.*]

No. 87.

FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendants were common carriers of passengers by railway between and .

2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3. That while he was such passenger, at [*or*, near the station of ; *or*, between the stations of and], a collision occurred on the said railway, caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., *and state the special damage, if any, as*], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as a salesman.

[*Demand of judgment.*]

[*Or thus*:—2. That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, &c., *as in* § 3.]

No. 88.

FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is a shoe-maker, carrying on business at
The defendant is a merchant of

2. On the [23rd May 1875], the plaintiff was walking eastward along Chowringhee, in the city of Calcutta, at about three o'clock in the afternoon. He was obliged to cross Harington street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of Harington Street into Chowringhee. The pole of the carriage struck the plaintiff, and knocked him down, and he was much trampled by the horses.

3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages.

(*Title.*)

Written Statement of Defendant.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. *E. F.* and *G. H.*] of Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said Messrs. *E. F.* and *G. H.*

2. The defendant does not admit that the said carriage was turned out of Harington Street either negligently, suddenly, or without warning, or at a rapid or dangerous pace.

3. The defendant says, that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.

4. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

FOR LIBEL; THE WORDS BEING LIBELLOUS IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant published in a newspaper, called the [*or*, in a letter addressed to *E. F.*], the following words concerning the plaintiff:—

[*Set forth the words used.*]

2. That the said publication was false and malicious.

[*Demand of judgment.*]

NOTE.—If the libel was in a language not the language of the Court, set out the libel *verbatim* in the foreign language in which it was published, and then proceed thus:—"Which said words, being translated into the language, have the meaning and effect following, and were so understood by the persons to whom they were so published, that is to say, [*here set out a literal translation of the libel in the language of the Court.*]

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff [is, and] was, on and before the day of 18 , a merchant, doing business in the city of

2. That on the day of 18 , at , the defendant published in a newspaper, called the [*or*, in a letter addressed to *E. F.*, *or otherwise show how published*], the following words concerning the plaintiff:—

["*A. B.*, of this city, has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address."]

3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].

4. That the said publication was false and malicious.

[*Demand of judgment.*]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously spoke, in the hearing of *E. F.* [*or*, sundry persons], the following words concerning the plaintiff: "He is a thief"].

2. That, in consequence of the said words, the plaintiff lost his situation as in the employ of

[*Demand of judgment.*]

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously said to one *E. F.* concerning the plaintiff: ["He is a young man of remarkably easy conscience"].

2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.

3. That, in consequence of the said words, [the said *E. F.* refused to employ the plaintiff as a clerk].

[*Demand of judgment.*]

No. 93.

FOR MALICIOUS PROSECUTION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant obtained a warrant of arrest from [a magistrate of the said city, *or, as the case may be,*] on a charge of , and the plaintiff was arrested thereon, and imprisoned for [days, *or*, hours, and gave bail in the sum of rupees to obtain his release

2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.

3. That on the day of 18 , the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.

4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; *or*, that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one *E. F.*, *or*, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[*Demand of judgment.*]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *X. Y.* was the absolute owner of [the estate, *or*, the share of the estate, called , situate in the District of , the Government revenue of which is rupees and the estimated value rupees *or*, of the house No. , street in the town of Calcutta, the estimated value of which is rupees].

2. That on the day of 18 , *Z* illegally dispossessed the said *X. Y.* of the said estate [*or* share *or* house].

3. That the said *X. Y.* has since died intestate, leaving the plaintiff the said *A. B.* his heir him surviving.

4. That the defendant withholds the possession of the estate [*or* share *or* house] from the plaintiff.

The plaintiff prays judgment:

(1) For the possession of the said premises;

(2) For rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows:—

1. On the day of , the plaintiff, by an instrument in writing let to the defendant a house and premises No. 52, Russell Street, in the for a term of five years from the day of , at the monthly rent of rupees 300.

2. By the said instrument the defendant covenanted to keep the said house and premises ingood and tenantable repair.

3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4. On the day of 187 a month's rent became due, and on the day of 187 another month's rent became due; on the day of 187 both had been in arrear for twenty-one days, and both are still due.

5. On the same day of 187 the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to re-instate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims:

(1) Possession of the said house and premises;
(2) Rupees for arrears of rent;
(3) Rupees compensation for the defendant's breach of his covenant to repair;
(4) Rupees for the occupation of the house and premises from the day of 187 to the day of recovering possession.

No. 95.

BY THE TENANT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That one *E. F.* is the absolute owner of [a piece of land in the town of Calcutta, , bounded as follows:], the estimated value of which is rupees .

2. That on the day of 18 , the said *E. F.* let the said premises to the plaintiff for years, from

3. That the defendant withholds the possession thereof from the plaintiff.

[*Demand of judgment.*]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [*or* was possessed of] one hundred barrels of flour, the estimated value of which is rupees .

2. That on that day, at , the defendant took the same.

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [*or, state facts showing a right to the possession*] the goods mentioned in the schedule hereto annexed [*or describe the goods*], the estimated value of which is rupees .

2. That from that day until the commencement of this suit, the defendant has detained the same from the plaintiff.

3. That before the commencement of this suit, to wit, on the day of 18 , the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees, in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

The schedule.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1 That on the day of 18 , at , the defendant [*C. D.*], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell and deliver to the said *C. D.* [one hundred boxes of tea], the estimated value of which is rupees.

3. That the said representations were false, and were then known by the said *C. D.* to be so. [*Or*, That at the time of making the said representations, the said *C. D.* was insolvent, and knew himself to be so.]

4. That the said *C. D.* afterwards transferred the said goods to the defendant *E. F.*, without consideration [*or* who had notice of the falsity of the representation].

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees, in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained [ten bighás].

2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3. That on the day of 18 , the plaintiff paid the defend ant rupees as part of such purchase-money.

4. That the said piece of ground contained in fact only [five bighás].

The plaintiff prays judgment:

(1) For rupees, with interest from the day of 18 ;

(2) That the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is the absolute owner of [*describe the property*].

2. That the defendant is in possession of the same under a lease from the plaintiff.

3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment, that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[*Pecuniary compensation might also be prayed.*]

No. 101.

FOR ABATEMENT OF A NUISANCE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. , street, Calcutta].

2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].

3. That on the day of 18 , the defendant erected upon his said lot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].

4. That [the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].

The plaintiff prays judgment, that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

[*As in No.* 81.]

The Plaintiff prays judgment, that the defendant be restrained by injunction from diverting the water as aforesaid.

No. 103.

FOR RESTORATION OF MOVEABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather, which was executed by an eminent painter], and of which no duplicate exists [*or state any facts showing that the property is of a kind that cannot be replaced by money*].

2. That on the day of 18 , he deposited the same for safe-keeping with the defendant.

3. That on the day of 18 , he demanded the same from the defendant, and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff, and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the said [painting].

The plaintiff prays judgment:

(1) That the defendant be restrained by injunction from disposing of, injuring, or concealing the said [painting];

(2) That he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That before the date of the claims hereinafter mentioned, one *G. H.* deposited with the plaintiff [*describe the property*] for [safe keeping].

2. That the defendant, *C. D.*, claims the same [under an alleged assignment thereof to him from the said *G. H.*]

3. That the defendant, *E. F.*, also claims the same [under an order of the said *G. H.* transferring the same to him].

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

(1) That the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;

(2) That they be required to interplead together concerning their claims to the said property;

[(3) That some person be authorized to receive the said property pending such litigation];

(4) That upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. *E. F.*, late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [*here insert nature of debt and security, if any*].

2. The said *E. F.* made his Will, dated the day of and thereof appointed *C. D.* executor [*or*, devised his estate in trust, *&c.*, *or*, died intestate, *as the case may be*].

3. The said Will was proved by the said *C. D.* [*or*, letters of administration were granted, *&c.*].

4. The defendant has possessed himself of the moveable [and immoveable, *or*, the proceeds of the immoveable] property of the said *E. F.*, and has not paid the plaintiff his said debt.

5. The said *E. F.* died on or about the day of

6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said *E. F.*, deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEES.

(*Title.*)

[*Alter Form* 105 *thus*:—]

[*Omit paragraph* 1 *and commence paragraph* 2] *E. F.*, late of , duly made his last Will, dated the day of and thereof appointed *C. D.* executor, and by such Will bequeathed to the plaintiff [*here state the specific legacy*].

For paragraph 4, *substitute*—

The defendant is in possession of the moveable property of the said *E. F.*, and, amongst other things, of the said [*here name the subject of the specific bequest*].

For the commencement of paragraph 6 *substitute*—

The plaintiff prays that the defendant may be ordered to deliver to him the said [*here name the subject of the specific bequest*] or that, &c.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEES.

(*Title.*)

[*Alter Form* 105 *thus*:—].

[*Omit paragraph* 1 *and substitute for paragraph* 2] *E. F.*, late of , duly made his last Will, dated the day of , and thereof appointed *C. D.* executor, and by such Will bequeathed to the plaintiff a legacy of rupees

In paragraph 4, *substitute* "legacy" *for* "debt."

Another Form.

Between *E. F.* ... ... *Plaintiff*,

and

G. H. ... ... *Defendant.*

A. B., the above-named plaintiff, states as follows:—

1. *A. B.* of *K* in the duly made his last Will, dated the [first day of March 1873], whereby he appointed the defendant and *M. N.* [who died in the testator's life-time] executors thereof, and bequeathed his property, whether moveable or immoveable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immoveable property for the person who would be the testator's heir-at-law, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the [first day of July 1873], and his Will was proved by the defendant on the [fourth of October 1873]. The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immoveable property; the defendant entered into the receipt of the rents of the immoveable property and got in the moveable property; he has sold some part of the immoveable property.

The plaintiff claims—

(1) To have the moveable and immoveable property of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken.

(2) Such further or other relief as the nature of the case may require.

Between *E. F.* ... ... *Plaintiff*,

and

G. H. ... ... *Defendant.*

Written Statement of Defendant.

1. *A. B's* Will contained a charge of debts; he died insolvent; he was entitled at his death to some immoveable property which the defendant sold, and which produced the nett sum of rupees and the testator had some moveable property which the defendant got in, and which produced the nett sum of rupees

2. The defendant applied the whole of the said sums and the sum of rupees which the defendant received from rents of the immoveable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the [tenth of January 1875], and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.

4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

IN THE COURT OF AT

Civil Regular No.

A. B. of ... *Plaintiff*,

against

C. D. of the beneficiary [*or*, one of the beneficiaries], ... *Defendant.*

A. B., the above-named plaintiff, states as follows:—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the day of made upon the marriage of the said *E. F.* and *G. H.* the father and mother of the defendant [*or*, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*].

2. The said *A. B.* has taken upon himself the burden of the said trust, and is in possession of [*or*, of the proceeds of] the moveable and immoveable property conveyed [*or* assigned] by the before-mentioned deed.

3. The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.

4. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, *or* of part of the said, immoveable property, *or* moveable, *or* the proceeds of the sale of, *or* of part of, the said moveable, property, *or* the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the Court may direct, or that the said *C. D.* may shew good cause to the contrary.

N. B.—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, *on the plaint by a legatee.*]

No. 109.

FORECLOSURE OR SALE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. By an instrument of mortgage bearing date on or about the day of 18 , a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed [*or* assigned] by the defendant to him the plaintiff, his heirs [*or* executors, administrators,] and assigns, for securing the principal sum of Rs. together with interest thereon after the rate of Rs. per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of Rs. for principal and interest on the said mortgage.

3. The plaintiff prays (*a*) that the Court will order the defendant to pay him the said sum of Rs. , with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the equity of redemption of the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (*b*) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (*c*) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (*d*) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

(*Title.*)

[*Alter Form* 109 *thus*:—]

Transpose parties and also the facts in paragraph 1.

or paragraph 2, *substitute*—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3, *substitute*—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey [*or* re-assign] the same to him upon payment of the said sum of Rs. and interest, with such costs (if any), as the Court may order upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance [*or* assignment], and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

No. 111.

SPECIFIC PERFORMANCE. (No. 1).

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. By an agreement dated the day of and signed by the above-named defendant, *C. D.*, he the said *C. D.* contracted to buy of [*or* sell to] him certain immoveable property, therein described and referred to, for the sum of Rs.

2. He has applied to the said *C. D.* specifically to perform the said agreement on his part, but he has not done so.

3. The said *A. B.* has been and still is ready and willing specifically to perform the agreement on his part, of which the said *C. D.* has had notice.

4. The plaintiff prays that the Court will order the said *A. B.* specifically to perform the said agreement, and to do all acts necessary to put the said *A. B.* in full possession of the said property [*or* to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[*N. B.—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs* 2 *and* 3, *and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled, such as that the plaintiff signed it by mistake, under distress, or by the fraud of the defendant, and alter the prayer according* to the *relief sought.*]

No. 112.

SPECIFIC PERFORMANCE. (No. 2).

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant was absolutely entitled to certain immoveable property described in the agreement hereto annexed.

2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. That on the day of 18 , the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

4. That on the day of 18 , the plaintiff again demanded such conveyance. [*Or*, that the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:

(1) That the defendant execute to the plaintiff a sufficient conveyance of the said property [*following the terms of the agreement*]

(2) For rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. He and the said *C. D.*, the defendant, have been for the space of years [*or* months] last past carrying on business together at within the jurisdiction of this Court, under certain articles of partnership in writing, signed by them respectively, [*or*, under a certain deed sealed and executed by them respectively, *or*, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [*or* deed, *or* agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [*or* deed, *or* agreement], or that, if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by of

Pleader for the plaintiff, *or* by

[*N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution: but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.*]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, section 58.]

Money lent.	The plaintiff's claim is rs. for money lent [and interest].
Several demands.	The plaintiff's claim is rs., whereof rs. is for the price of goods sold, and rs. for money lent, and rs. for interest.
Rent.	The plaintiff's claim is rs. for arrears of rent.
Salary, &c.	The plaintiff's claim is rs. for arrears of salary as a clerk [*or, as the case may be*].
Interest.	The plaintiff's claim is rs. for interest upon money lent.
General average.	The plaintiff's claim is rs. for a general average contribution.
Freight, &c.	The plaintiff's claim is rs. for freight and demurrage.
Banker's balance.	The plaintiff's claim is rs. for money deposited with the defendant as a banker.
Fees, &c., as pleader.	The plaintiff's claim is rs. for fees for work done [and rs. money expended] as a pleader.
Commission.	The plaintiff's claim is rs. for commission earned as [*state character, as* auctioneer, cotton-broker, *&c.*].
Medical attendance, &c.	The plaintiff's claim is rs. for medical attendances.
Return of premium.	The plaintiff's claim is rs. for a return of premiums paid upon policies of insurance.
Warehouse rent.	The plaintiff's claim is rs. for the warehousing of goods.
Carriage of goods.	The plaintiff's claim is rs. for the carriage of goods by railway.
Use and occupation of houses.	The plaintiff's claim is rs. for the use and occupation of a house.
Hire of goods.	The plaintiff's claim is rs. for the hire of [furniture].
Work done.	The plaintiff's claim is rs. for work done as a [surveyor].
Board and lodging.	The plaintiff's claim is rs. for board and lodging.
Schooling.	The plaintiff's claim is rs. for the [board, lodging and] tuition of *X. Y.*
Money received.	The plaintiff's claim is rs. for money received by the defendant as pleader [*or* factor, *or* collector, *or*, *&c.*] of the plaintiff.
Fees of office.	The plaintiff's claim is rs. for fees received by the defendant under colour of the office of
Money overpaid.	The plaintiff's claim is rs. for a return of money overcharged for the carriage of goods by railway.
	The plaintiff's claim is rs. for a return of fees overcharged by the defendant as
Return of money by stake-holder.	The plaintiff's claim is rs. for a return of money deposited with the defendant as stake-holder.
Money won from stake-holder.	The plaintiff's claim is rs. for money entrusted to the defendant as stake-holder, and become payable to plaintiff.
Money entrusted to agent.	The plaintiff's claim is rs. for a return of money entrusted to the defendant as agent of the plaintiff.
Money obtained by fraud.	The plaintiff's claim is rs. for a return of money obtained from the plaintiff by fraud.
Money paid by mistake.	The plaintiff's claim is rs. for a return of money paid to the defendant by mistake.
Money paid for consideration which has failed.	The plaintiff's claim is rs. for a return of money paid to the defendant for [work to be done, *or* work left undone; *or*, a bill to be taken up, *or*, a bill not taken up, *or*, *&c.*]
	The plaintiff's claim is rs. for a return of money paid as a deposit upon shares to be allotted.
Money paid by surety for defendant.	The plaintiff's claim is rs. for money paid for the defendant as his surety.
Rent paid.	The plaintiff's claim is rs. for money paid for rent due by the defendant.
Money paid on accommodation-bill.	The plaintiff's claim is rs. upon a bill of exchange accepted [*or* indorsed] for the defendant's accommodation.
Contribution by surety.	The plaintiff's claim is rs. for a contribution in respect of money paid by the plaintiff as surety.
By co-debtor.	The plaintiff's claim is rs. for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.
Money paid for calls.	The plaintiff's claim is rs. for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.
Money payable under award.	The plaintiff's claim is rs. for money payable under an award.
Life-policy.	The plaintiff's claim is rs. upon a policy of insurance upon the life of *X. Y.*, deceased.
Money-bond.	The plaintiff's claim is rs. upon a bond to secure payment of rs. and interest.
Foreign judgment.	The plaintiff's claim is rs. upon a judgment of the Court in [the Empire of Russia].
Bills of exchange, &c.	The plaintiff's claim is rs. upon a cheque drawn by the defendant.
	The plaintiff's claim is rs. upon a bill of exchange accepted [*or* drawn, *or* indorsed] by the defendant.
	The plaintiff's claim is rs. upon a promissory note made [*or* indorsed] by the defendant.
Surety.	The plaintiff's claim is rs. against the defendant, *A. B.*, as acceptor, and against the defendant, *C. D.*, as drawer [*or* indorser] of a bill of exchange.
	The plaintiff's claim is rs. against the defendant as surety for the price of goods sold.

	The plaintiff's claim is rs. against the defendant, *A. B.*, as principal, and against the defendant, *C. D.*, as surety, for the price of goods sold [*or* for arrears of rent, *or* for money lent, *or* for money received by the defendant, *A. B.*, as traveller for the plaintiff, *or*, *&c.*].
Calls.	The plaintiff's claim is rs. for calls upon shares.

Indorsement for costs, &c.

[*Add to the above Forms*] and rs. for costs; and if the amount claimed be paid to the plaintiff or his pleader within days [*or, if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order*] from the service hereof, further proceedings will be stayed.

Damages and other claims.

Agent, &c.	The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.
	The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].
	The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.
	The plaintiff's claim is for damages for breach of duty as factor [*or*, *&c.*,] of the plaintiff [and rs. for money received as factor, *or* *&c.*]
Apprentices.	The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of *X. Y.* to the defendant [*or* plaintiff].
Arbitration.	The plaintiff's claim is for damages for non-compliance with the award of *X. Y.*
Assault, &c.	The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].
By husband and wife.	The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, *C. D.*
Against husband and wife.	The plaintiff's claim is for damages for assault by the defendant, *C. D.*
Pleader.	The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.
Bailment.	The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].
Pledge.	The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].
Hire.	The plaintiff's claim is for damages for negligence in the custody of furniture [*or*, a carriage] lent on hire, [and for wrongfully, *&c.*].
Banker.	The plaintiff's claim is for damages for wrongfully neglecting [*or* refusing] to pay the plaintiff's cheque.
Bill.	The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.
Bond.	The plaintiff's claim is upon a bond conditioned not to carry on the trade of a
Carrier.	The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.
	The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.
Charter-party.	The plaintiff's claim is for damages for breach of charter-party of ship [*Mary*].
Claim for return of goods; damages.	The plaintiff's claim is for return of household furniture, [*or*, *&c.*,] or their value, and for damages for detaining the same.
Damages for depriving of goods.	The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, *&c.*
Defamation.	The plaintiff's claim is for damages for libel.
	The plaintiff's claim is for damages for slander.
Wrongful distress.	The plaintiff's claim is for damages for improperly distraining.

[*This Form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular.*]

Ejectment.	The plaintiff's claim is to recover possession of a house, No. in Street, or of a farm called Blackacre, situate in the of in the of
To establish title and recover rents.	The plaintiff's claim is to establish his title to [*here describe property*] and to recover the rents thereof.

[*The two previous Forms may be combined*].

Fishery.	The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.
Fraud.	The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [*or* a business, *or* shares, *or*, *&c.*].
	The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of *A. B.*
Guarantee.	The plaintiff's claim is for damages for breach of a contract of guarantee for *A. B.*
	The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.
Insurance.	The plaintiff's claim is for a loss under a policy upon the ship [*Royal Charter*], and freight of cargo [*or* for return of premiums].

[*This Form shall be sufficient whether the loss claimed be total or partial.*]

	The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture.
Fire insurance	The plaintiff's claim is for damages for breach of a contract to insure a house.
	The plaintiff's claim is for damages for breach of a contract to keep a house in repair.
Landlord and tenant.	The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.
Medical man.	The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

Mischievous animal. The plaintiff's claim is for damages for injury by the defendant's dog.

Negligence. The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.

The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants.

Act XIII of 1855. The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.

The plaintiff's claim is as executor of *A. B.* deceased, for damages for the death of the said *A. B.*, from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.

Promise of marriage. The plaintiff's claim is for damages for breach of promise of marriage.

Sale of goods. The plaintiff's claim is for damages for breach of contract to accept and pay for goods.

Sale of goods. The plaintiff's claim is for damages for non-delivery [*or* short delivery, *or* defective quality, *or other breach of contract of sale*] of cotton [*or, &c.*].

Sale of land. The plaintiff's claim is for damages for breach of warranty of a horse.

The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] land.

The plaintiff's claim is for damages for breach of a contract to let [*or* take] a house.

The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] the lease, with good-will, fixtures, and stock-in-trade of a public-house.

The plaintiff's claim is for damages for breach of covenant for title [*or* for quiet enjoyment, *or, &c.*] in a conveyance of land.

Trespass on land. The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [*or* cutting his grass, *or* felling his timber, *or* pulling down his fences, *or* removing his gate, *or* using his road or path, *or* crossing his field, *or* depositing sand there, *or* carrying away gravel from thence, *or* carrying away stones from his river].

Support. The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or* house, *or* mine].

Way. The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, *or* private, way].

Water-course, &c. The plaintiff's claim is for damages for wrongfully diverting [*or* obstructing, *or* polluting, *or* diverting water from] a water-course.

The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [*or* into the plaintiff's mine].

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

Pasture. The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.

[*This Form shall be sufficient whatever the nature of the right to pasture be.*]

Patent. The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

Copy-right. The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

Trade-mark. The plaintiff's claim is for damages for the infringement of the plaintiff's copy-right.

Work. The plaintiff's claim is for damages for wrongfully using [*or* imitating] the plaintiff's trade-mark.

The plaintiff's claim is for damages for breach of a contract to build a ship [*or* to repair a house, *&c.*].

Nuisance. The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, &c.

The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [*or, &c.*].

The plaintiff's claim is for damages from nuisance by noise from the defendant's works [*or* stables, *or, &c.*].

Injunction. [*Add to indorsement*]:—and for an injunction.

Mesne profits. [*Add to indorsement where claim is to land, or to establish title, or both*]:—and for mesne profits.

Arrears of rent. and for an account of rents or arrears of rent.

Breach of covenant. and for breach of covenant for [repairs].

1. *Creditor to administer Estate.*

The plaintiff's claim is as a creditor of *X. Y.*, of deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the administrator of the said *X. Y.*, [and the defendants, *E. F.* and *G. H.*, as his coheirs at law.]

2. *Legatee to administer Estate.*

The plaintiff's claim is as a legatee under the will dated the day of 18 , of *X. Y.*, deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the executor of the said *X. Y.* [and the defendants, *E. F.* and *G. H.*, as his devisees].

3. *Partnership.*

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the day of], and to have the affairs of the partnership wound up.

4. *By mortgagee.*

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the day of , made between [*parties*] [*or*, by deposit of title-deeds], and that the mortgage may be enforced by foreclosure or sale.

5. *By mortgagor.*

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated and made between [*parties*], and to redeem the property comprised therein.

6. *Raising Portions.*

The plaintiff's claim is that the sum of rs. which by an indenture of settlement, dated , was provided for the portions of the younger children of may be raised.

7. *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated and made between [*parties*] carried into execution.

8. *Cancellation, or Rectification.*

The plaintiff's claim is to have a deed dated and made between [*parties*] set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the day of for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at

No. 115.

PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will dated the day of of *C. W.* late of deceased, who died on the day of and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [*or, as the case may be*].

2. *By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased seeking to obtain the revocation of a probate granted in common form.*

The plaintiff claims to be executor of the last will dated the day of of *C.D.*, late of deceased, who died on the day of and to have the probate of a pretended will of the said deceased, dated the day of revoked. This summons is issued against you as the executor of the said pretended will [*or, as the case may be*].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of *C. D.*, late of deceased, who died on the day of dated the day of .

The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.*

The plaintiff claims to be the brother and sole next-of-kin of *C.D.* of deceased, who died on the day of intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [*or, as the case may be*].

Indorsements of character of Parties.

The plaintiff's claim is as executor [*or* administrator] of *C.D.*, deceased, for, *&c.*

The plaintiff's claim is against the defendant, *A. B.*, as executor [*or*, *&c.*] of *C.D.*, deceased, for, *&c.*

The plaintiff's claim is against the defendant, *A.B.*, as executor of *X. Y.* deceased, and against the defendant, *C.D.*, in his personal capacity, for, *&c.*

By husband and wife-executrix. The claim of the plaintiff, *C D.*, is as executrix of *X. Y.*, deceased, and the claim of the plaintiff, *A.B.*, as her husband, for

Trustees. The plaintiff's claim is as [*or*, the plaintiff's claim is against the defendant as] trustee under the will of *A.B.* [*or* under the settlement upon the marriage of *A.B.* and *X. Y.* his wife].

Public officer. The plaintiff's claim is as public officer of the Bank, for

The plaintiff's claim is against the defendant as public officer of the Bank, for

The plaintiff's claim is against the defendant, *A.B.*, as principal, and against the defendant, *C.D.*, as public officer, of the Bank, as surety, for

Heir and devisee. The plaintiff's claim is against the defendant as heir-at-law of *A.B.*, deceased.

The plaintiff's claim is against the defendant, *C.D.*, as heir-at-law, and against the defendant, *E.F.*, as devisee, of lands under the will of *A.B.*

F.—MISCELLANEOUS.

No. 116.

Section 58 of the Code of Civil Procedure.

Court of the

REGISTER OF CIVIL SUITS in the year 18 .

holden at

Date of presentation of plaint.	No. of Suit.	Plaintiff.			Defendant.			Claim.			Appearance.		Judgment.		Appeal.		Execution.				Return of Execution.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for parties to appear.	Plaintiff.	Date.	For whom.	For what, or amount.	Date of Appeal.	Judgment in Appeal.	Date of application.	Date of Order.	Against whom.	For what, and amount if money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than payment of Arrest, and date of every Return.

PART IV] THE GAZETTE OF INDIA, APRIL 7, 1877. 671

No. 117.

SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure.

(*Title.*)

To

dwelling at

WHEREAS
has instituted a suit against you for
you are hereby summoned to appear in this Court in person or by a duly authorized Pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the day of 18 , at o'clock in the forenoon, to answer the above-named plaintiff; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your Pleader , which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18 .

L. S.

Judge.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

NOTE.—*If written statements are required, say*—You are (*or* such a party is, *as the case may be*) required to put in a written statement by the day of

No. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure.

(*Title.*)

To

dwelling at

WHEREAS
has instituted a suit against you for
you are hereby summoned to appear in this Court in person or by a duly authorized Pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the day of 18 , at o'clock in the forenoon, to answer the above-named plaintiff; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the issues will be settled in your absence; and you will bring with you, or send by your Pleader , which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18

L. S.

Judge.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

NOTE.—*If written statements are required, say*—You are (*or* such a party is, *as the case may be*) required to put in a written statement by the day of

No. 119.

SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure.

NO. OF SUIT.

IN THE COURT OF AT

Plaintiff.

Defendant.

To (*Name, description and address.*)

WHEREAS [*here enter the name, description and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*If not specially required to appear in person, state*—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here;* "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"]: and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

No. 120.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

The day of 18 .

WHEREAS it is stated in the plaint that , the defendant in the above suit is at present residing in , but that the right to sue accrued within the jurisdiction of this Court: it is ordered that a summons returnable on the day of 18 be forwarded for service on the said defendant, to the Court of with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

TO ACCOMPANY RETURN OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil suit No. of 18 .

The day of 18 .

A. B. of

against

C. D. of

Read proceeding from the forwarding for service on in Civil No. of that Court.

Read bailiff's endorsement on the back of the process stating that the and proof of the above having been duly taken by me on the [oath *or*] affirmation of and it is ordered that the be returned to the with a copy of this proceeding.

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 122.

DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure.

(*Title.*)

I, the undersigned defendant [*or* one of the defendants], disclaim all interest under the will of the said *E. F.* in the plaint named [*or*, as heir-at-law of, *or*, as next-of-kin, *or* one of the next-of-kin, of *E. F.*, deceased, in the said plaint named].

Or, I the undersigned defendant state, that I admit [*or* deny] [*here repeat in the language of the plaint the statements admitted or denied*].

Or, I the undersigned defendant submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [*or*, that it appears upon the said plaint that I am jointly liable with one *E. F.*, who is not a party to the suit, and not severally liable as by the plaint appears, *or*, that it appears by the said plaint that *G. H.* should have been a joint plaintiff with the said *A. B.* in the said suit, *or, as the case may be*].

Or, that the plaintiff has conveyed [*or* assigned] his interest in the said mortgage [*or* equity of redemption] to one *I. J.* [*or*, that I have conveyed or assigned to *H. L.* by way of further charge for securing the sum of Rs. , the equity of redemption in the property sought by the suit to be foreclosed].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership trading [*or, as the case may be*].

(*Signed*) *C. D.*,

Defendant.

No. 123.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B.

against

C. D., *E. F.* and *G. H.*

Interrogatories on behalf of the above-named *A. B.* [*or C. D.*] for the examination of the above-named [*E. F.* and *G. H.*, *or A. B.*].

1. Did not &c.

2. Has not &c.

The defendant *E. F.* is required to answer the interrogatories numbered

The defendant *G. H.* is required to answer the interrogatories numbered

No. 124.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B.

against

C. D.

Take notice that the plaintiff [*or* defendant] requires you to produce for his inspection the following documents referred to in your plaint [*or* written statement, *or* affidavit], dated the day of 18 .

Describe documents required.

X. Y. Pleader for the plaintiff [*or* the defendant].

To *Z.*

Pleader for the defendant [*or* plaintiff].

No. 125.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS your attendance is required to on behalf of the in the above cause, you are hereby required [personally to appear before this Court] on the day of 18 , at the hour of A. M. [and] to bring with you or to send to this Court

A sum of Rs. , being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you do not comply with this order, you will be subject to the consequence of non-attendance laid down in the Code of Civil Procedure, section 170.

Notice—(1). If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2). If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to you for each day's attendance beyond the day specified.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 126.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

Another Form.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.

Defendant.

To (*Name, description and address.*)

You are hereby summoned to appear in this Court in person on the day of at in the forenoon, to give evidence on behalf of the plaintiff [*or* the defendant] in the above-mentioned suit, and to produce [*here describe with convenient certainty any document the production of which may be required. If the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly*] and you are not to depart thence until you have been examined [*or* have produced the document] and the Court has risen, or unless you have obtained the leave of the Court.

FORMS OF DECREES.

No. 127.

SIMPLE MONEY-DECREE.

(*Title.*)

Claim for

THIS cause coming on for final disposal before in the presence of , on the part of the plaintiff, and on the part of the defendant, it is ordered that the do pay to the the sum of Rs. , with interest thereon at the rate of per cent. per from to the date of realization of the said sum, and do also pay to the the costs of this suit as taxed by the officer of the Court, with interest thereon at the rate aforesaid from the date of taxation to the date of realization.

Costs of suit.

PLAINTIFF.	Rs.	A.	P.	DEFENDANT.	Rs.	A.	P.
1. Stamp for plaint ...				Stamp for power ...			
2. Do. for power ...				Do. petition ...			
3. Do. exhibits ...				Pleader's fee			
4. Pleader's fees on Rs. ...				Subsistence for witnesses ...			
5. Translation fee ...				Service of process ...			
6. Subsistence for witness for attendance ...				Translation fee ...			
				Commissioner's fee ...			
7. Commissioner's fee ...							
8. Service of process ...							
9. &c.							
TOTAL ...				TOTAL ...			

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 128.

DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(*Title.*)

It is ordered that it be referred to the Registrar [*or* Taxing Officer] to take an account of what is due to the plaintiff for principal and interest on the mortgage [*or* lien] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the Registrar do certify to the Court on the day of what he shall find to be due for principal and interest as aforesaid, and for costs; And upon the defendant paying into Court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months after the Registrar [*or* Taxing Officer] shall have presented his certificate; it is ordered that the plaintiff do reconvey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under him, and do deliver up to the Registrar [*or* Taxing Officer] all deeds and writings in his custody or power relating thereto, and that upon such reconveyance being made, and deeds and writings being delivered up, the Registrar [*or* Taxing Officer] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest and costs; but in default of the defendant paying into Court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or* the premises subject to the said lien] be sold with the approbation of the Registrar [*or* Taxing Officer]. And it is ordered that the money to arise by such sale be paid into Court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant.

No. 129.

FINAL DECREE FOR FORECLOSURE.

(*Title.*)

Whereas it appears to the Court that the defendant has not paid into Court the sum which was on the day of last certified by the Registrar to be due to the Plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in this suit on the day of last, and that the period of six months has elapsed since the said day of

It is ordered that the Defendant do stand absolutely debarred and foreclosed of and from all equity of redemption of, in, and to, the said mortgaged premises.

No. 130.

PRELIMINARY ORDER—ADMINISTRATION SUIT.

Section 213 of the Code of Civil Procedure.

(*Title.*)

It is ordered that the following accounts and inquiries be taken and made; that is to say:—

In creditor's suit—

1. That an account be taken of what is due to the Plaintiff and all other the creditors of the deceased.

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next-of-kin [*or* one of the next-of-kin] of the intestate.

[*After the first paragraph, the Order will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law, and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors, will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.*]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the Defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered, that the Defendant do, on or before the day of next, pay into Court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the *Registrar* shall find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into Court.

8. And that Mr. *E. F.* be Receiver in the suit [*or* proceeding], and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar [and shall give security by bond for the due performance of his duties to the amount of rupees].

9. And it is further ordered, that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say,—

(*a*) an inquiry what immoveable property the deceased was seised of or entitled to at the time of his death;

(*b*) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased, or any part thereof;

(*c*) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immoveable property of the deceased, or so much thereof as shall be necessary to make up the fund in Court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered, that *G. H.* shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered, that, for the purpose of the inquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of and that the Registrar do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

14. And, lastly, it is ordered, that this suit [*or* matter] stand adjourned for making final decree to the day of

[*Such part only of this order is to be used as is applicable to the particular case.*]

No. 131.

FINAL DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE.

Section 213 of the Code of Civil Procedure.

1. It is ordered that the defendant do on or before the day of pay into Court the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the estate of , the testator, and also the sum of Rs. for interest, at the rate of Rs. per centum per annum, from the day of to the day of amounting together to the sum of Rs.

2. Let the Registrar [*or* Taxing Officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rs. ordered to be paid into Court as aforesaid, as follows:—

(*a.*)—The costs of the plaintiff to Mr. , his attorney [*or* pleader], and the costs of the defendant to Mr. , his attorney [*or* pleader].

(*b.*)—And (*if any debts are due*), with the residue of the said sum of Rs. after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid; and after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.

3. And if there should then be any residue, let the same be paid to the residuary legatee.

DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

Section 213 of the Code of Civil Procedure.

1. Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff;

2. And it is ordered, that an account be taken of what is due for principal and interest on the said legacy;

3. And it is also ordered, that the defendant do within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest;

4. And it is ordered, that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ.

FINAL DECREE IN AN ADMINISTRATION SUIT BY NEXT-OF-KIN.

Section 213 of the Code of Civil Procedure.

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of *E. F.*, the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.

2. And it is ordered, that the residue of the said sum of Rs. , after payment of the plaintiffs' and defendant's costs as aforesaid, be paid and applied by defendant as follows:—

(*a.*)—Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs, *A. B.*, and *C.*, his wife, in her right, as the sister and one of the next-of-kin of the said *E. F.*, the intestate.

(*b.*)—Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next-of-kin of the said *E. F.*, the intestate.

(*c.*)—And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the remaining one-third share of the said residue to *G. H.*, as the brother and the other next-of-kin of the said *E. F.*, the intestate.

No. 132.

ORDER—DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure.

(*Title.*)

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the *Gazette, &c.*

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property and effects now belonging to the said partnership;

2. An account of the debts and liabilities of the said partnership;

3. An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken and all the other acts required to be done be completed before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of

No. 133.

PARTNERSHIP. FINAL DECREE.

Section 215 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No.

A. B. of
against
C. D. of

It is ordered that the fund now in Court, amounting to the sum of Rs. be applied as follows :—

1. In payment of the debts due by the partnership set forth in the Registrar's certificate amounting in the whole to Rs.

2. In payment of the costs of all parties in this suit, amounting to Rs.

[*These costs must be ascertained before the decree is drawn up*].

3. In payment of the sum of Rs. to the plaintiff as his share of the partnership-assets, of the sum of Rs. , being the residue of the said sum of Rs. now in Court to the defendant as his share of the partnership-assets.

[*Or*, And that the remainder of the said sum of Rs. be paid to the said plaintiff (*or* defendant) in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts.

And that the defendant (*or* plaintiff) do on or before the day of pay to the plaintiff (*or* defendant) the sum of Rs. being the balance of the said sum of Rs. due to him, which will then remain due].

No. 134.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

Section 224 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D of

CERTIFIED that no [*or* partial, *as the case may be, and if partial, state to what extent*] satisfaction of the decree of this Court, in Civil Suit No. of 18 a copy of which is hereunto attached, has been obtained by execution within the jurisdiction of this Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 135.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .

A. B. of
against
C. D. of

To

WHEREAS has made application to this Court for execution of decree in Civil Suit No. 18 , this is to give you notice that you are to appear before this Court on the day of 18 , either in person or by a Pleader of this Court, or agent duly authorized and instructed to show cause, if any, why execution should not be granted.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 136.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANT'S POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

Section 254 of the Code of Civil Procedure.

(*Title.*)

TO THE BAILIFF OF THE COURT.

WHEREAS was ordered, by decree of this Court, passed on the day of 18 , in Suit No. of 18 , to pay to the plaintiff the sum of Rs. as noted in the margin; and whereas the said sum of Rs. has not been paid

DECREE.			
Principal			
Interest			
Costs			
Costs of decree . .	—	—	—
Interest thereon . .			
Total of attachment			
TOTAL . .	—	—	—

THESE ARE TO COMMAND YOU to attach the moveable property of the said as set forth in the list hereunto annexed, or which shall be pointed out to you by the said , and unless the said shall pay to you the said sum of Rs. together with Rs. , the costs of this attachment, to hold the same until further orders from this Court.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 18 , with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 137.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &c.

Section 263 of the Code of Civil Procedure.

(*Title.*)

TO THE BAILIFF OF THE COURT.

WHEREAS , in the occupancy of has been decreed to , the plaintiff in this suit: you are hereby directed to put the said in possession of the same, and you are hereby authorized to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 in favour of for Rs. it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from

receiving from the following property in the possession of the said that is to say, to which the defendant is entitled, subject to any claim of the said , and the said is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT SECURED BY NEGOTIABLE INSTRUMENTS

Section 268 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 , in Civil Suit No. of 18 , in favour of for Rs. : it is ordered that the defendant be, and hereby, prohibited and restrained, until the further order of this Court, from receiving from you a certain debt alleged now to be due from you to the said defendant, namely, and that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from making payment of the said debt, or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 140.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.

Section 268 of the Code of Civil Procedure.

(*Title.*)

To Defendant, and to , Manager of Company

WHEREAS has failed to satisfy a decree passed against on the day of 18 , in Civil Suit No. of 18 in favour of for Rs. it is ordered that you, the defendant, be, and you are hereby, prohibited and restrained, until the further order of this Court, from making any transfer of shares in the aforesaid Company, namely, or from receiving payment of any dividends thereof; and you , the Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 141.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 274 of the Code of Civil Procedure.

(*Title.*)

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the day of 18 , in Civil Suit No. of 18 , in favour of for Rs. : it is ordered that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 142.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

Sections 272 and 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

SIR,

THE plaintiff having applied, under section of the Code of Civil Procedure, for an attachment of certain money now in your hands (*here state how the money is supposed to be in the hands of the person addressed, on what account, &c.*), I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,
SIR,
Your most obedient Servant,

L. S.

Dated the day of 18 . *Judge.*

No. 143.

ORDER FOR PAYMENT TO THE PLAINTIFF, &c., OF MONEY, &c., IN THE HANDS OF A THIRD PARTY.

Section 277 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT AND TO

WHEREAS the following property has been attached in execution of a decree in Civil Suit No. of 18 , passed on the day of 18 , in favour of for Rs. : it is ordered

that the property so attached, consisting of Rs. in money, and Rs. in Bank Notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you to the said , and that the said property, so far as the said may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees, and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the said decree, shall be paid over to the said , and the remainder, if any, shall be paid to you, the said

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 144.

NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
Miscellaneous No. of 18
A. B. of
against
C. D. of

To

WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of the decree in Civil Suit No. of 18 this is to give you notice to appear before this Court on the day of , 18 , either in person or by a Pleader of the Court duly instructed, to support your claim as attaching creditor.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 145.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

Section 287 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
Miscellaneous No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

THESE ARE TO COMMAND YOU to sell by auction, after giving days' previous notice, by affixing the same in this Court-house, and after making due proclamation,* the property attached under a Warrant from this Court dated the of 18 in favour of in execution of a decree in suit No. of 18 for so much of the said property as shall realize the sum of Rs. , being the of the said decree and costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 18 with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

* This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed, should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered.

No. 146.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 300 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

To

WHEREAS has been the purchaser at a sale by auction in execution of the decree in the above suit of now in your possession, you are hereby prohibited from delivering possession of the said to any persons except the said .

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 147.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

and to

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of certain debt due from you to you , that is to say , it is ordered that you be and you are hereby prohibited from receiving, and you from making payment of, the said debt to any person or persons except the said .

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 148.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

Manager of Company.

and

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of certain shares in the above Company, that is to say of standing in the name of you it is ordered

that you be, and you are hereby, prohibited from making any transfer of the said shares to any person except the said the purchaser aforesaid, or from receiving any dividends thereon: and you , Manager of the said Company, from permitting any such transfer or making any such payment to any person except the said , the purchaser aforesaid.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 149.

ORDER CONFIRMING SALE OF LAND, &c.

Section 312 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

WHEREAS the following land (or immoveable property) was on the day of 18 sold by the Bailiff of this Court in execution of the decree in this suit; and whereas thirty days have elapsed and no application has been made (*or* objection allowed) to the said sale, it is ordered that the said sale be, and the said sale is hereby, confirmed.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 150.

CERTIFICATE OF SALE OF LAND.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

THIS is to certify that has been declared the purchaser at a sale by public auction on the day of 18 of the in execution of decree in this suit, and that the said sale has been duly confirmed by the Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 151.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

Section 318 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has become the certified purchaser of at a sale in execution of decree in Civil Regular No. of 18 , and whereas such land is in the possession of you are hereby ordered to put the said , the certified purchaser, as aforesaid, into possession of the said and if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of .

L. S.

Judge.

No. 152.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND ON SECURITIES BEING GIVEN.

Section 326 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

Collector of

SIR,

In answer to your communication No. , dated representing that the sale in execution of decree in this suit of land, lying within your district, paying revenue to Government, is objectionable, I have the honour to inform you that you are authorized, on security to the amount of Rs. decreed to the in the above suit, being given to your satisfaction, to make provision for the satisfaction of the said decree in the manner recommended by you instead of proceeding to a public sale of

I have the honour to be,
SIR,
Your obedient Servant,

L. S.

Judge.

No. 153.

ORDER FOR COMMITTAL FOR RESISTING, &c., EXECUTION OF DECREE FOR LAND.

Section 329 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS it appears to the Court that has without just cause resisted (*or* obstructed) the execution of the decree of the Court

passed against on the day of 18
in Civil Suit, No. of 18 , whereby certain land or immoveable property
was adjudged to , it is ordered that the said
be committed to custody for a period of days.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 154.

WARRANT OF ARREST IN EXECUTION.

Section 337 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS was adjudged by a decree of the Court, in No. of 18 , dated 18 , to pay to the plaintiff the sum of Rs. as noted in the margin, and whereas the said sum of Rs. has not been paid to the said plaintiff in satisfaction of the said decree, these are to command you to arrest the said defendant, and unless the said defendant shall pay to you the said sum of Rs. , together with Rs. for the costs of executing this process, to bring the said defendant before the Court with all convenient speed. You are further commanded to return this warrant on or before the day of 18 , with an endorsement certifying the day and manner in which it has been executed, or the reason why it has not been executed.

Principal			
Interest			
Costs			
Execution			
TOTAL .			

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 155.

NOTICE OF PAYMENT INTO COURT.

Section 377 of the Code of Civil Procedure.

IN THE 187 .
B. No.
A. B. v. *C. D.*

TAKE notice that the defendant has paid into Court Rs. and says that that sum is enough to satisfy the plaintiff's claim [*or* the plaintiff's claim for, *&c.*].

To Mr. *X. Z.*,
the Plaintiff's Pleader,
Z.,
Defendant's Pleader.

No. 156.

COMMISSION TO EXAMINE ABSENT WITNESSES.

Section 386 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

WHEREAS the evidence o is required by the in the above suit; and whereas you are requested to take the

examination on interrogatories [*or* viva voce] of such witnesses and you are hereby appointed a Commissioner for that purpose, and you are further requested to make return of such examination so soon as it may be taken [Process to require the attendance of the witness will be issued by this Court on your application.]*

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.

Sections 392 and 395 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for should be issued; you are hereby appointed Commissioner for the purpose of [process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on your application.]†

A sum of Rs. , being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

† Not necessary where the commission goes to another Court.

No. 158.

WARRANT OF ARREST BEFORE JUDGMENT.

Section 478 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the plaintiff in the above suit, has proved to the satisfaction of the Court that there is probable cause for believing that the defendant is about to these are to command you to take the said into custody, and to bring before the Court, in order that he may show cause why he should not furnish security to the amount of rupees for personal appearance before the Court, until such time as the said suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed against in the suit.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 159.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

WHEREAS , Plaintiff in this suit, has made application to the Court that security be taken for the appearance of the Defendant to answer any judgment that may be passed against in the suit; and whereas the Court has called upon the Defendant to furnish such security, or to offer a sufficient deposit in lieu of security, which has failed to do; it is ordered that the said Defendant be committed to custody until the decision of the suit; or if judgment be given against until the execution of the decree.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 160.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE.

Section 484 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has proved to the satisfaction of the Court that the Defendant in the above suit these are to command you to call upon the said Defendant on or before the day of either to furnish security for the sum of rupees to produce and place at the disposal of this Court when required or the value thereof, or such portion of the value as may be sufficient to fulfil any decree that may be passed against or to appear and show cause why should not furnish security; and you are further ordered to attach the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to the Court immediately after the execution hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 161.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the Plaintiff in this suit, has applied to the Court to call upon , the Defendant, to furnish security to fulfil any decree that may be passed against in the suit, and whereas the Court has called upon

the said to furnish such security which has failed to do ; these are to command you to attach the property of the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to this Court immediately after the execution hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 162.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

Defendant.

IT is ordered that you the said be, and you are hereby, prohibited and restrained until the further order of this Court from receiving from the following property in the possession of the said that is to say to which the defendant is entitled, subject to any claim of the said and the said is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 163.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

Defendant.

IT is ordered that you the said be, and you are hereby prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby, prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 164.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS, OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

IT is ordered that the defendant be, and he is hereby, prohibited and restrained, until the further order of this Court, from receiving from the [money now in hands belonging to the said defendant *or* debts, *as the case may be, describing them*] and that the said be and hereby prohibited and restrained, until the further order of this Court, from making payment of the said [money, *&c.*], or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 165.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &C.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To Defendant and

to

Manager of Company.

It is ordered that , the defendant, be and hereby prohibited and restrained, until the further order of the Court, from making any transfer of shares being in the aforesaid Company, or from receiving payment of any dividends thereof, and you Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer, or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 166.

TEMPORARY INJUNCTIONS.

Section 492 of the Code of Civil Procedure.

Upon motion made unto this Court by Pleader of (*or* Counsel for) the plaintiff *A. B.*, and upon reading the petition of the said plaintiff in this matter filed (this day) [*or* the plaint filed in this cause on the day of , *or* the written statement of the said plaintiff filed on the day of] and upon and in hearing the evidence of support thereof, [*if after notice and defendant not appearing, add,* and also the evidence as to service of notice of this motion upon the of defendant *C.D.*] This Court doth order that an injunction be awarded to restrain the

defendant *C. D.*, his servants, workmen and agents from pulling down, or suffering to be pulled down the house in the plaint in the said suit of the plaintiff mentioned [*or* in the written statement *or* petition of the plaintiff and evidence at the hearing of this motion mentioned] being No. 9, Oilmongers Street, Hindúpur, in the Taluq of and from selling the materials whereof the said house is composed, until the hearing of this cause or until the further order of this Court.

Dated this day of 187 .

Civil Judge.

[*Where the injunction is sought to restrain the negotiation of a bill, note or security, the ordering part of the order may run thus :—*] to restrain the defendants and from parting with out of the custody of them or any of them, or endorsing, assigning or negotiating the promissory note in question, dated on or about the *&c.*, mentioned in the plaintiff's plaint [*or* petition] and the evidence heard at this motion, until the hearing of this cause, or until the further order of this Court.

[*In copyright cases*] to restrain the defendant, *C. D.*, his servants, agents, or workmen from printing, publishing, or vending a book, called , or any part thereof, until the, *&c.*

[*Where part only of a book is to be restrained*] to restrain the defendant, *C. D.*, his servants, agents, or workmen, from printing, publishing, selling, or otherwise disposing of such parts of the book in the plaint [*or* petition and evidence, *&c.*,] mentioned to have been published by the defendant as hereinafter specified, namely, that part of the said book which is entitled and also that part which is entitled (*or* which is contained in p. to p. both inclusive) until the *&c.*

[*In patent cases*] to restrain the defendant, *C. D.*, his agents, servants and workmen, from making or vending any perforated bricks (*or, as the case may be*) upon the principle of the inventions in the plaintiff's plaint [*or* petition, *&c.*, *or* written statement, *&c.*,] mentioned, belonging to the plaintiffs, or either of them, during the remainder of the respective terms of the patents in the plaintiff's plaint (*or, as the case may be*) mentioned, and from counterfeiting, imitating or resembling the same inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, &c.

[*In cases of trade-marks*] to restrain the defendant, *C. D.*, his servants, agents or workmen, from selling, or exposing for sale, or procuring to be sold, any composition or blacking (*or, as the case may be*) described as or purporting to be blacking manufactured by the plaintiff, *A. B.*, in bottles having affixed thereto such labels as in the plaintiff's plaint [*or* petition, *&c.*] mentioned, or any other labels so contrived or expressed as, by colorable imitation or otherwise, to represent the composition or blacking sold by the defendant to be the same as the composition or blacking manufactured and sold by the plaintiff, *A. B.*, and from using trade-cards so contrived or expressed as to represent that any composition or blacking sold or proposed to be sold by the defendant is the same as the composition or blacking manufactured or sold by the plaintiff, *A. B.*, until the, *&c.*

[*To restrain a partner from in any way, interfering in the business*] to restrain the defendant, *C. D.*, his agents and servants, from entering into any contract, and from accepting, drawing, endorsing or negotiating any bill of exchange, note or written security, in the name of the partnership firm of *B. & D.*, and from contracting any debt, buying and selling any goods, and from making or entering into any verbal or written promise, agreement or undertaking, and from doing or causing to be done, any act, in the name or on the credit of the said partnership firm of *B. & D.*, or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sum of money, or for the performance of any contract, promise or undertaking, until the, *&c.*

No. 167.

NOTICE OF APPLICATION FOR INJUNCTION.

Section 494 of the Code of Civil Procedure.

IN THE COURT OF AT

A. B. of

against

C. D. of

Take notice that I, *A. B.*, intend to apply at the sitting of the Court at aforesaid, on the day of for an injunction to restrain *C. D.* from further prosecuting a suit which he has commenced against me in to recover damages for the breach of the contract for the specific performance of which this suit was commenced [*or* to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding up of which the suit was commenced, *or* from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this suit is commenced to enforce, *or, as the case may be*].

Dated this day of 18 .

To *C.D.* *A. B.*

[*N. B.—Where the injunction is to be applied for against a party whose name and address does not appear upon any proceeding already filed in the suit, it must be stated in full to enable the proper officer to serve the notice.*]

No. 168.

APPOINTMENT OF A RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

WHEREAS has been attached in execution of a decree passed in the above suit on the day of 18 , in favour of : you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Receiver of the said property under section 503 of the Code of Civil Procedure, with full powers under the provisions of that section.

YOU are required to render a due and proper account of your receipts and disbursements in respect of the said property on . You will be entitled to remuneration at the rate of per cent. upon your receipts under the authority of this appointment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of

A. B. of
against
C. D. of

KNOW all men by these presents, that we, *A. B.* of, &c., and *C. D.* of, &c., and *E. F.* of, &c., are jointly and severally bound to *G. H.*, Registrar of the Court of in Rs. , to be paid to the said *G. H.* or his attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.

Dated this day of 18 .

And whereas a plaint has been filed in this Court by *A. B.* against *C. D.* for the purpose of (*here insert object of suit*).

And whereas the said *A. B.* has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immoveable property, and to get in the outstanding moveable property of *C. D.*, the testator in the said plaint named.

Now the condition of this obligation is such, that if the above-bounden *A. B.* shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immoveable property, and in respect of the moveable property of the said *C. D.* [*or, as may be*] at such periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

A. B.
C. D.

Signed and delivered by the above-bounden in the presence of

NOTE.—*If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.*

No. 170.

ORDER OF REFERENCE TO ARBITRATION UNDER AGREEMENT OF PARTIES.

Section 508 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS the above-mentioned plaintiff and defendant have agreed to refer the matters in difference between them in the above suit to your arbitration and award, you are hereby appointed accordingly to determine all the said matters in difference between the parties, and with power, by consent of the parties, to determine which party shall pay the costs of this reference.

You are required to deliver your award in writing to this Court on or before the day of 18 , or such other day as this Court may further fix.

Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on our application, and you are empowered to administer to such witnesses oath or affirmation.

A sum of Rs. , being your fee in the above suit, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 171.

ORDER OF REFERENCE TO ARBITRATION BY COURT, WITH CONSENT.

Section 508 of the Code of Civil Procedure.

(*Title.*)

UPON reading a petition of the plaintiff, filed this day, and on the consent of for the defendant, and upon hearing for the plaintiff and for the defendant, it is ordered, by and with the consent of all the parties, that all matters in difference in this suit, including all dealings and transactions between all parties, be referred to the final determination of , who is to make his award in writing and submit the same to this Court, together with all proceedings, depositions, and exhibits in this suit, within one month from the date hereof. And it is ordered further, by and with the like consent, that the said arbitrator is to be at liberty to examine the parties and their witnesses upon oath or affirmation, which he is empowered to administer, and that the said arbitrator shall have all such powers or authorities as are vested in arbitrators under the Code of Civil Procedure, including therein power to call for all books of account that he may consider necessary. And it is further ordered, by and with the like consent, that the costs of this suit, together with the costs of reference to arbitration, up to and including the award of the said arbitrator, and the enforcement thereof, do abide the result of the finding of the said arbitrator. And it is further ordered, by and with the like consent, that the said arbitrator be at liberty to appoint a competent accountant to assist him in the investigation of the several matters referred to him as aforesaid, and that the remuneration of such accountant and other charges attending thereto be in the discretion of the said arbitrator.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 172.

SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT.

Section 532 of the Code of Civil Procedure.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.
Defendant.

To [*Here enter the defendant's name, description and address.*]

Whereas [*here enter the plaintiff's name, description and address*] has instituted a suit in this Court against you under Chapter XXXIX of the Code of Civil Procedure for Rs. principal and interest [*or* Rs. balance of principal and interest] due to him as the payee [*or* indorsee] of a bill of exchange [*or* hundí *or* promissory note], of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs. [*here state the sum claimed*] and the sum of Rs. for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[*Here copy the bill of exchange, hundí or promissory note, and all endorsements upon it.*]

No. 173.

MEMORANDUM OF APPEAL.

Section 540 of the Code of Civil Procedure.

MEMORANDUM OF APPEAL.

(*Name, &c., as in Register.*) Plaintiff—Appellant.
(*Name, &c., as in Register.*) Defendant—Respondent.

[*Name of Appellant*] [plaintiff *or* defendant] above-named appeals to the High Court at [*or* District Court at , *as the case may be*] against the decree of in the above suit, dated the day of , for the following reasons, namely [*here state the grounds of objection*].

No. 174.

REGISTER OF APPEALS.

Section 550 of the Code of Civil Procedure.

COURT (*OR* HIGH COURT) AT

REGISTER OF APPEALS FROM DECREES in the year 18 .

No.	Date of Memorandum.	No. of appeal	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.					APPEARANCE.			JUDGMENT.		
			Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.

No. 175.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

Section 553 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

APPEAL from the of the Court of dated the day of 18 .

Respondent.

To

Take notice that an appeal from the decree of in this case has been presented by and registered in this Court, and that the day of 18 has been fixed by this Court for the hearing of this appeal.

IF no appearance is made on your behalf by yourself, your pleader, or by some one by law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your absence.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

NOTE.—If a stay of execution has been ordered, intimation should be given of the fact on this notice.]

No. 176.

DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

Appeal from the of the Court of dated the day of 18 .

Memorandum of Appeal.

, *Plaintiff.*

, *Defendant.*

Plaintiff [*or* defendant] above-named appeals to the Court at against the decree of in the above suit, dated the day of 18 , for the following reasons, namely;

[*here state the reasons*]

This appeal coming on for hearing on the day of 18 , before , in the presence of for the Appellant, and of for the Respondent, it is ordered—

[*here state the relief granted*]

The costs of this appeal, amounting to , are to be paid by
The costs of the original suit are to be paid by

GIVEN under my hand, this day of 18 .

Judge.

No. 177.

REGISTER OF APPEALS FROM APPELLATE DECREES.

Section 587 of the Code of Civil Procedure.

HIGH COURT AT

REGISTER OF APPEALS FROM APPELLATE DECREES.

No. of Appeal.	Appellant.		Respondent.		Decree Appealed from.			Appearance.			Judgment.		
	Name.	Description.	Name.	Description.	No. of Original suit and of Appeal.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.

Date of Memorandum.

No. 178.

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

Section 626 of the Code of Civil Procedure.

IN THE COURT OF AT

Plaintiff, v. *Defendant*.

To

TAKE notice that has applied to this Court for a review of its judgment passed on the day of 18 in the above case. The day of 18 is fixed for you to show cause why the Court should not grant a review of its judgment in this case.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 179.

NOTICE OF CHANGE OF PLEADER.

IN THE COURT OF AT

A. B. of
against
C. D. of

TO THE REGISTRAR OF THE COURT.

TAKE notice that I, *A. B.* [*or C. D.*], have hitherto employed as my pleader *G. H.* of in the above-mentioned cause, but that I have ceased to employ him, and that my present pleader is *J. K.* of

A. B. [*or C. D.*]

No. 180.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE, OR ORDER OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [*place of office*] from *ten* till *four*, except on [*here insert the day on which the office will be closed*], when the office will be closed at *one*.

WHITLEY STOKES,

Secretary to the Govt. of India.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information :—

Act No. VII of 1877.

An Act 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 school-houses, 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."

Amendment of Act of 1871, ss. 12, 13 and 14.

2. In Section 12 of the said Act, for the word "assignment" in each of the places where it occurs, the word "allotment" shall be substituted, and for the word "re-allotted" the word "re-assigned" shall be substituted.

And in section 13 of the said Act, for the word "assignment" the word "allotment" shall be substituted,

And in Section 14 of the same Act, for the word "amount," in each of the places where it occurs, the word "allotment" shall be substituted.

WHITLEY STOKES,

Secy. to the Govt. of India.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information :—

ACT No. VIII OF 1877.

An Act 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 to the provinces under the government of the Lieutenant-Governor of the North-Western Provinces; but nothing herein contained applies to persons earning their livelihood solely by agriculture.

Commencement.

And it shall come into force at once.

"Collector" defined.

2. In this Act "Collector" means the Chief Officer in charge of the revenue-administration of a District.

Annual licenses to be taken out.

3. 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 to which he belongs.

Officer to grant license.

4. 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 his trade or dealing in more than one district in the North-Western Provinces, 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.

5. 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 to be paid for his license:

(*d*) the place or places where the licensee intends to carry on his 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.

6. 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 day of the granting thereof.

Renewal of license.

7. 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.

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 to be 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 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.

9. The Collector shall from time to time determine under which of the classes 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 1877 within thirty days of such publication in that year and within thirty days next after the first day of January in each succeeding year.

Petition of objector.

10. Any person mentioned in such list and objecting to the class 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 altogether removed from the list.

Hearing of petition. Appeal from order on petition.

11. 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:

Provided 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, and the fee, if any, paid by him shall be returned.

There shall be no appeal from an order under this section.

Power to remit fee.

12. 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.

Persons carrying on several trades.

13. A person or firm carrying on several trades or businesses and 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.

Penalty for carrying on business without a license.

14. 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 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 and all fees payable under this Act shall be recoverable as if they were arrears of land-revenue.

License to be produced on demand.

15. 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 and managers chargeable.

16. 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.

Power to retain assessment paid by trustee, &c.

17. 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 Court and person so charged may, from time to time, out of the money coming to its or his 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.

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.

18. The Collector 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 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, and the Collector has reason to doubt their accuracy, he may at any time cause a return showing the names, numbers, and classes aforesaid to be prepared in such manner as may be prescribed by the Local Government.

Notice to Municipalities.

19. When the return mentioned in section 18 has been furnished or prepared, notice shall be served on the Municipality, calling on it to pay to the Collector 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.

20. All taxes raised and penalties recovered under this Act shall be paid to the credit of the Local Government, or as such Government from time to time directs.

Powers of Collector under Act may be exercised by other officers.

21. 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.

22. Every person shall be legally bound to furnish information to any officer or person exercising any of the powers of a Collector under this Act when required by him to do so.

Obligation to furnish information to Collector.

23. 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 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 providing in any case or class of cases for serving notices on persons charged under this Act, 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	Rs. 16.
Professional money-lenders ...	
Companies registered under the Indian Companies Act, 1866 ...	
Owners of cotton-screws ...	
Persons keeping shops for the sale of European goods	
Hotel-keepers	
Wholesale-dealers	
Dealers in precious stones ...	

CLASS II.

Cloth-sellers	Rs. 8.
Metal-vessel-sellers	
Fuel-sellers (talwálas)	
Chaudhrís	
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 artisans	

CLASS III.

Persons carrying on any trades or dealings not above specified ...	Rs. 2.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th March 1877, and is hereby promulgated for general information:—

ACT No. IX OF 1877.

An Act 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.

WHITLEY STOKES,
Secy. to the Govt. of India.

[Third Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th March 1877, and is hereby promulgated for General information:—

ACT No. X OF 1877.

THE CODE OF CIVIL PROCEDURE.

CONTENTS.

PREAMBLE.

PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
   Local extent.
2. Interpretation-clause.
3. Enactments repealed.
   References in previous Acts.
   Saving of procedure in suits instituted before 1st October 1877.
4. Saving of certain Acts affecting Oudh, Panjáb, Central Provinces and Burma.
5. Sections extending to Mufassal Small Cause Courts.
6. Saving of jurisdiction and procedure—
   (*a*) of Military Courts of Request;
   (*b*) of officers appointed to try small suits in Bombay;
   (*c*) of village Munsifs and village Panchâyats in Madras;
   (*d*) of Recorder of Rangoon sitting as an Insolvent Court.
7. Saving of certain Bombay laws.
8. Presidency Small Cause Courts.
9. Division of Code.

PART I.

OF SUITS IN GENERAL.

CHAPTER I.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

10. No person exempt from jurisdiction by reason of descent or place of birth.
11. Courts to try all civil suits unless specially barred.
12. Pending suits.
13. *Res judicata.*
14. When foreign judgment no bar to suit in British India.

CHAPTER II.

OF THE PLACE OF SUING.

15. Court in which suit to be instituted.
16. Suits to be instituted where subject-matter situate.
17. Suits to be instituted where defendants reside or cause of action arose.
18. Suits for compensation for wrongs to person or moveables.
19. Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.
    Suits for immoveable property situate in different districts.
20. Power to stay proceedings where all defendants do not reside within jurisdiction.
    Application when to be made.
21. Remission of Court-fee where suit instituted in another Court.
22. Procedure where Courts in which suit may be instituted are subordinate to the same Appellate Court.
23. Procedure where they are not so subordinate.
24. Procedure where they are subordinate to different High Courts.
25. Transfer of suits.

CHAPTER III.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

26. Persons who may be joined as plaintiffs.
27. Court may substitute or add plaintiff for or to plaintiff suing.
28. Persons who may be joined as defendants.
29. Joinder of parties liable on same contract.
30. One party may sue or defend on behalf of all in same interest.
31. Suit not to fail by reason of misjoinder.
32. Court may dismiss or add parties.
    No one to be added as plaintiff or as next friend without his consent.
    Parties to suits instituted or defended under section 30.
    Defendants added to be served.
    Conduct of suit.
33. Where defendant added, plaintiff to amend.
34. Time for taking objections as to non-joinder or misjoinder of parties.
35. Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.
    Authority to be in writing signed and filed.

Recognized Agents and Pleaders.

36. Appearances, &c., may be in person, by recognized agent or by pleader.
37. Recognized agents.
    Persons holding powers-of-attorney from parties out of jurisdiction.
    Certificated mukhtárs.
    Persons carrying on trade or business for parties out of jurisdiction.
    Recognized agents in Panjáb, Oudh and Central Provinces.
38. Service of process on recognized agent.
39. Appointment of pleader.
40. Service of process on pleader.
41. Agent to receive process.
    His appointment to be in writing and to be filed in Court.

CHAPTER IV.

OF THE FRAME OF THE SUIT.

42. Suit how to be framed.
43. Suit to include the whole claim.
    Relinquishment of part of claim.
    Omission to sue for one of several remedies.
44. Only certain claims to be joined with suit for recovery of land.
    Claims by or against executor, administrator, or heir.
45. Plaintiff may join several causes of action.
    Court may order separation.
46. Defendant may apply to confine suit.
47. Court on hearing application may exclude some causes and order amendment.

CHAPTER V.

OF THE INSTITUTION OF SUITS.

48. Suits to be commenced by plaint.
49. Language of plaint.
50. Particulars to be contained in plaint.
    In money suits.
    Where plaintiff sues as a representative.
    Defendant's interest and liability to be shown.
    Grounds of exemption from limitation-law.

SECTIONS.

51. Plaint to be subscribed and verified.
52. Contents of verification.
Verification to be signed and attested.
53. When the plaint may be rejected, returned for amendment, or amended.
Proviso.
Attestation of amendment.
54. When the plaint shall be rejected.
55. Procedure on rejecting a plaint.
56. When rejection of plaint does not preclude presentation of fresh plaint.
57. When the plaint shall be returned to be presented to the proper Court.
Procedure on returning plaint.
58. Procedure on admitting plaint.
Concise statements.
Register of suits.
59. Production of document on which plaintiff sues.
Delivery of document or copy.
List of other documents.
60. Statement in case of documents not in his possession or power.
61. Suits on lost negotiable instruments.
62. Production of shop-book.
Original entry to be marked and returned.
63. Inadmissibility of document not produced when plaint filed.

CHAPTER VI.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

64. Summons.
65. Copy or statement annexed to summons.
66. Court may order defendant or plaintiff to appear in person.
67. No party to be ordered to appear in person unless resident within 50 or, where there is a railway, 200 miles.
68. Summons to be either to settle issues or for final disposal.
69. Fixing day for appearance of defendant.
70. Summons to order defendant to produce documents required by plaintiff or relied on by defendant.
71. On issue of summons or final disposal, parties to be directed to produce their witnesses.

Service of Summons.

72. Delivery of summons for service.
73. Mode of service.
74. Service on several defendants.
75. Service to be on defendant in person, when practicable, or on his agent.
76. Service on agent by whom defendant carries on business.
77. Service on agent in charge, in suits for immoveable property.

SECTIONS.

78. When service may be on male member of defendant's family.
79. Person served to sign acknowledgment.
80. Procedure when defendant refuses to accept service,
or cannot be found.
81. Endorsement of time and manner of service.
82. Examination of serving officer.
Substituted service.
83. Effect of substituted service.
84. When service is substituted, time for appearance to be fixed.
85. Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.
86. Service within Presidency-towns and Rangoon of process issued by Mufassal Courts.
87. Service on defendant in jail.
88. Procedure if jail be in a different district.
89. Service when defendant resides out of British India and has no agent to accept service.
90. Service through British Resident or agent of Government.
91. Substitution of letter for summons.
92. Mode of sending such letter.

Service of Process.

93. Process to be served at expense of party issuing it.
Costs of service.
94. Notices and orders in writing how served.

Postage.

95. Postage.

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

96. Parties to appear on day fixed in summons for defendant to appear and answer.
97. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing it.
Proviso.
98. If neither party appear, suit to be dismissed.
99. In such case plaintiff may bring fresh suit: or Court may restore the suit to its file.
100. Procedure if only plaintiff appear
when summons was duly served,
when summons not duly served,
when summons served, but not in due time.
101. Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.
102. Procedure where defendant only appears.
Decree against plaintiff by default bars fresh suit.

SECTIONS.

103. Procedure where defendant residing out of British India does not appear.
104. Procedure in case of non-attendance of one or more of several plaintiffs.
105. Procedure in case of non-attendance of one or more of several defendants.
106. Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.
107. Court to receive written declaration in support of cause shown for failure to appear.
108. Setting aside decree *ex parte* against defendant.
109. No decree to be set aside, without notice to opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

110. Written statements.
111. Particulars of set-off to be given in written statement.
Enquiry.
Effect of set-off.
Relinquishment of portion of claim for purpose of set-off.
112. No written statement to be received after first hearing unless called for by Court.
Court may at any time call for written statement.
113. Procedure when party fails to present written statement called for by Court.
114. Frame of written statements.
115. Written statements to be subscribed and verified.
116. Rejection of argumentative, prolix or irrelevant written statements.
Attestation of amendments.
Effect of rejection.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. Ascertainment from each party whether allegations in written statements are admitted or denied.
118. Oral examination of party or companion of himself or his pleader.
119. Substance of examination to be written.
120. Consequence of refusal or inability of pleader to answer.

CHAPTER X.

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

121. Power to deliver interrogatories.
122. Service of interrogatories.
123. Inquiry into propriety of exhibiting interrogatories.
124. Service of interrogatories on officer of corporation or company.
125. Power to strike out interrogatories as irrelevant, &c.
126. Time for filing affidavit in answer.
127. Procedure where a party omits to answer sufficiently.

SECTIONS.

128. Power to demand admission of genuineness of documents.
129. Application for order for discovery of document.
Affidavit in answer to such order.
130. Power to order production of documents during suit.
131. Notice to produce for inspection documents referred to in plaint, &c.
Consequence of non-compliance with such notice.
132. Party receiving such notice to deliver notice when and where inspection may be had.
133. Application for order of inspection.
134. Application to be founded on affidavit.
135. Power to order issue or question on which right to discovery depends to be first determined.
136. Consequences of failure to answer or give inspection.
137. Court may send for papers from its own records or from other Courts.
138. Documentary evidence to be in readiness at first hearing.
139. Effect of non-production of documents.
140. Documents to be received by Court.
Rejection of irrelevant or inadmissible documents.
141. No documents to be placed on record unless proved.
Proved documents to be marked and filed.
Entries in shop-books.
142. Rejected documents to be marked,
and returned, unless detained by Court.
143. Court may order any document to be impounded.
144. After lapse of time for appeal, document admitted in evidence may be returned.
When document may be returned before time limited.
Document not be returned in certain cases.
Receipt to be given for returned document.
145. Provisions as to documents applied to material objects.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

146. Framing of issues.
147. Allegations from which issues may be framed.
148. Court may examine witnesses or documents before framing issues.
149. Power to amend, add and strike out issues.
150. Questions of fact or law may by agreement be stated in the form of an issue.
151. Court if satisfied that the agreement was executed in good faith may give judgment.

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

152. If parties are not at issue on any question of law or fact.
153. If one of several defendants be not at issue with the plaintiff.
154. If parties are at issue on question of law or fact.
Court may determine issue and pronounce judgment.

SECTIONS.
155. If either party fails to produce his evidence, Court may pronounce judgment.
Procedure where Court cannot pronounce judgment at first hearing.

CHAPTER XIII.

OF ADJOURNMENTS.

156. Court may grant time, or adjourn hearing.
Costs of adjournment.
157. Procedure if parties fail to appear on day fixed.
158. Court may proceed notwithstanding either party fails to produce his evidence.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. Summons to attend to give evidence or produce documents.
160. Expenses of witnesses to be paid into Court on applying for summons.
Scale of expenses.
161. Tender of expenses to witness.
162. Procedure where insufficient sum paid in.
Expenses if witness detained more than one day.
163. Time, place, and purpose of attendance to be specified in summons.
164. Summons to produce document.
165. Power to require persons present in Court to give evidence.
166. Summons how served.
167. Time for serving summons.
168. Attachment of property of absconding witness.
169. If witness appears, attachment may be withdrawn.
170. Procedure if witness fails to appear.
171. Court may of its own accord summon as witnesses strangers to suit.
172. Persons summoned to give evidence must attend.
173. When they may depart.
174. Consequences of non-attendance.
Consequences of refusal to give evidence or produce documents.
175. Procedure when witness absconds.
176. Person summoned to attend in person if so required.
177. Consequence of refusal of party to give evidence when called on by the Court.
178. Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. Statement and production of evidence by party having right to begin.
Rules as to right to begin.
180. Statement and production of evidence by other party.
Reply by party beginning.
181. Witnesses to be examined in open Court.
182. How evidence shall be taken in appealable cases.
183. When witness may require his deposition to be interpreted.
184. Memorandum when evidence is not taken down by Judge.
185. When evidence may be taken in English.
186. Any particular question and answer may be taken down.
187. Questions objected to.
188. Remarks on demeanour of witnesses.
189. Memorandum of evidence in unappealable cases.
190. Judge unable to make such memorandum to record reason of his inability.
191. Power to deal with evidence taken down by Judge removed before conclusion of suit.
192. Power to examine witness immediately.
193. Court may recall and examine witness.

CHAPTER XVI.

OF AFFIDAVITS.

194. Power to order any point to be proved by affidavit.
195. When evidence may be given by affidavit.
196. Matters to which affidavits shall be confined.
197. Oath of declarant by whom to be administered.

CHAPTER XVII.

OF JUDGMENT AND DECREE.

198. Judgment when pronounced.
199. Power to pronounce judgment written by Judge's predecessor.
200. Language of judgment.
201. Translation of judgment.
202. Judgment to be dated and signed.
203. Judgments of Small Cause Courts.
Judgments of other Courts.
204. Court to state its decision on each issue.
Exception.
205. Date of decree.
206. Contents of decree.
Power to amend decree.
207. Decree for recovery of portion of immoveable property.
208. Decree for delivery of moveable property.
209. In suits for money, decree may order certain interest to be paid on principal sum adjudged.
210. Payment by instalments.
When Court may order payment by instalments.
211. In suits for land, Court may decree payment of mesne profits with interest.
212. Court may determine amount of mesne profits prior to passing decree, or may reserve enquiry.
213. Administration-suit.
214. Suit to enforce right of pre-emption.
215. Suit for dissolution of partnership.
216. If set-off be allowed.
Effect of decree.
217. Certified copies of decree and judgment to be furnished.

CHAPTER XVIII.

OF COSTS.

SECTIONS.
218. Costs of applications.
219. Judgment to direct by whom costs are to be paid.
220. Power of Court as to costs.
221. Costs may be set-off against sum admitted or found to be due.
Saving of Pleader's lien.
222. Interest on costs.
Payment of costs out of subject-matter.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.
223. Court by which decree may be executed.
224. Procedure when Court desires that its own decree shall be executed by another Court.
225. Court receiving copies of decree, &c., to file same without proof.
226. Execution of decree or order by Court to which it is sent.
227. Execution by High Court of decree transmitted by other Court.
228. Appeal from orders for execution of decrees of other Courts.
229. Decrees of Courts established by Government of India in Native States.
B.—Of Application for Execution.
230. Application for execution.
231. Application by joint decree-holder.
232. Application by transferee of decree.
233. Transferee to hold subject to equities enforceable against original holder.
234. If judgment-debtor die before execution, application may be made against his representative.
235. Contents of application for execution of decree.
236. Application for attachment of immoveable property to be accompanied with inventory.
237. Application for attachment of moveable property to be accompanied with inventory.
238. When application must be accompanied by extract from Collector's register.
C.—Of staying Execution.
239. When Court may stay execution.
240. Power to require security from, or impose conditions upon, judgment-debtor.
241. Liability of judgment-debtor discharged to be retaken.
242. Order of Court passing decree or of Appellate Court to be binding upon Court applied to.
243. Stay of execution pending suit between decree-holder and judgment-debtor.
D.—Questions for Court executing Decree.
244. Questions to be decided by Court executing decree.
E.—Of the mode of executing Decrees.
245. Procedure on receiving application for execution of decree.
Procedure on admitting application.
246. Cross-decrees.
247. Cross-claims under same decree.
248. Notice to show cause why decree should not be executed.
Proviso.
249. Procedure after issue of notice.
250. Warrant when to issue.
251. Date, signature, seal and delivery.
252. Decree against representative of deceased for money to be paid out of deceased's property.
253. Decree against surety.
254. Decree for money.
255. Decree for mesne profits or other matter, amount of which to be subsequently ascertained.
256. Power to direct immediate execution of decree for money not exceeding rupees 1,000.
257. Modes of paying money under decree.
258. Payment of money out of Court to decree-holder.
259. Decrees for specific moveables, or recovery of wives.
260. Decree for specific performance or restitution of conjugal rights.
261. Decree for execution of conveyances, or endorsement of negotiable instruments.
262. Form and effect of execution of conveyance by Court.
263. Decree for immoveable property.
264. Delivery of immoveable property when in occupancy of tenant.
265. Partition of estate or separation of share.
F.—Of Attachment of Property.
266. Property liable to attachment and sale in execution of decree.
267. Power to summon and examine persons as to property liable to be seized.
268. Attachment of debt, share and other property not in possession of judgment-debtor.
269. Attachment of moveable property in possession of defendant.
Power to make rules for maintenance of attached live-stock.
270. Attachment of negotiable instruments.
271. Seizure of property in house.
Seizure of property in zanánás.
272. Attachment of property deposited in Court or with Government officer.
Proviso.
273. Attachment of decree for money.
Attachment of other decrees.
Decree-holders to give information.
274. Attachment of immoveable property.
275. Order for withdrawal of attachment after satisfaction of decree.
276. Private alienation of property after attachment to be void.
277. Court may direct coin or currency-notes attached to be paid to party entitled.
278. Investigation of claims to and objections to attachment of attached property.
Postponement of sale.
279. Evidence to be adduced by claimant.
280. Release of property from attachment.
281. Disallowance of claim to release of property attached.
282. Continuance of attachment subject to claim of incumbrancer.

SECTIONS.
283. Saving of suits to establish right to attached property.
284. Power to order property attached to be sold and proceeds be paid to person entitled.
285. Property attached in execution of decrees of several Courts.

G.—Of Sale and Delivery of Property.

(*a*). *General Rules.*

286. Sales by whom conducted and how made.
287. Proclamation of sales by public auction.
Rules to be made by High Court.
288. Indemnity of Judges, &c.
289. Mode of making proclamation.
290. Time of sale.
291. Power to adjourn sale.
Stoppage of sale on tender of debt and costs, or on proof of payment.
292. Officers concerned in execution-sales not to bid for or buy property sold.
293. Defaulting purchaser answerable for loss by re-sale.
294. Decree-holder not to bid for or buy property without permission.
If decree-holder purchase, amount of decree may be taken as payment.
295. Proceeds of execution sale to be divided rateably among decree-holders.
Proviso where property is sold subject to mortgage.

(*b*). *Rules as to Moveable Property.*

296. Rules as to negotiable securities and shares in public companies.
297. Payment for moveable property sold.
298. Irregularity not to vitiate sale of moveable property, but any person injured may sue.
299. Delivery of moveable property belonging to defendant actually seized.
300. Delivery of moveable property to which judgment-debtor is entitled subject to lien.
301. Delivery of debts and of shares in public companies.
302. Transfer of negotiable instruments and shares.
303. Vesting order in case of other property.

(*c*). *Rules as to Immoveable Property.*

304. Sales of land by Court not inferior to a District Court.
305. Postponement of sale of land to enable defendant to raise amount of decree.
Certificate to judgment-debtor.
306. Deposit by purchaser of immoveable property.
307. Time for payment in full.
308. Procedure in default of payment.
309. Notification on re-sale of immoveable property.
310. Purchaser of a share of undivided estate sold in execution to have preference in bidding.
311. Sale of land not set aside on ground of irregularity unless in case of substantial injury.
312. Effect of objection being disallowed and of its being allowed.
313. Power to apply to set aside the sale.

SECTIONS.
314. Confirmation of sale.
315. If sale set aside, price to be returned to purchaser.
316. Certificate to purchaser of immoveable property.
Certificate to state name of actual purchaser.
317. Benámí purchaser not recognized.
318. Delivery of immoveable property in occupancy of judgment-debtor.
319. Delivery of immoveable property in the occupancy of tenant.
320. Power to prescribe rules for transferring to Collector execution of decrees and sale of land.
Power to prescribe rules as to transmission, execution and re-transmission of decrees.
321. Power of Collector as to sale of land in execution of decree.
322. Powers of Collector as to execution of certain money-decrees so transferred.
323. Procedure of Collector.
324. Sale by Collector.
325. Sale, &c., to be reported to Court by Collector.
Application of balance.
326. When Court may authorize Collector to stay public sale of land.
327. Local rules as to sales of land in execution of decrees for money.

(*H*).—*Of Resistance to Execution.*

328. Procedure in case of obstruction to execution of decree.
329. Procedure in case of obstruction by judgment-debtor or at his instigation.
330. Procedure when obstruction continues.
331. Procedure in case of obstruction by claimant in good faith, other than judgment-debtor.
332. Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.
333. Orders passed under sections 331 and 332 to have force of decrees, and to be subject to appeal.
334. Resisting or obstructing purchasers in obtaining possession of immoveable property.
335. Obstruction by claimant other than defendant.

(*I*).—*Of Arrest and Imprisonment.*

336. Place of judgment-debtor's imprisonment.
Arrest in houses.
Proviso.
337. Warrant for arrest to direct judgment-debtor to be brought up.
338. Scales of subsistence allowances.
339. Judgment-debtor's subsistence-money.
340. Subsistence money to be added to amount of decree.
341. Release of judgment-debtor.
342. Imprisonment not to exceed six months.
When not to exceed six weeks.
343. Endorsement on warrant.

CHAPTER XX.

OF INSOLVENT JUDGMENT-DEBTORS.

344. Power to apply to be declared an insolvent.

SECTIONS.
345. Contents of application.
346. Subscription and verification of application.
347. Service on decree-holder of copy of application and notice.
348. Power to serve other creditors.
349. Powers of Court as to applicant under arrest.
350. Procedure at hearing.
351. Declaration of insolvency and appointment of Receiver.
352. Creditors to prove their debts.
Schedule to be framed.
353. Applications by creditors.
354. Effect of order appointing Receiver.
355. Receiver to give security and collect assets.
Discharge of insolvent.
356. Duty of Receiver.
His right to remuneration.
Delivery of surplus.
357. Effect of discharge.
358. When Court may declare insolvent absolved from further liability.
359. Procedure in case of dishonest applicant.
360. Investment of other Courts with powers of District Courts.
Transfer of cases.

PART II.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

361. No abatement by party's death, if cause of action survive.
362. Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.
363. Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.
364. Proceeding where no application made by representative of deceased plaintiff.
365. Proceeding in case of death of sole, or sole surviving, plaintiff.
366. Abatement where no application by representative of deceased plaintiff.
367. Procedure in case of dispute as to representative of deceased plaintiff.
368. Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.
369. Suit not abated by marriage of female party.
370. When plaintiff's bankruptcy or insolvency bars suit.
Procedure when assignee fails to continue suit or give security.
371. Effect of abatement on parties' rights.
Application to set aside abatement or dismissal.
372. Procedure in case of assignment pending the suit.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. Power to allow plaintiff to withdraw with liberty to bring fresh suit.

SECTIONS.
374. Limitation-law not affected by first suit.
375. Compromise of suits.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

376. Deposit by defendant of amount in satisfaction of claim.
377. Notice of deposit.
378. Interest on sum deposited not allowed to plaintiff after receipt of notice.
379. Procedure where plaintiff accepts deposit as satisfaction in part.
Procedure where he accepts it as satisfaction in full.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

380. When security for costs may be required from plaintiff at any stage of suit.
381. Procedure where requisition is not complied with.
382. Residence out of British India.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

383. Cases in which Court may issue commission to examine witness.
384. Order for commission may be made either on application of parties or by Court of its own accord.
385. When witness resides within Court's jurisdiction.
386. When witness resides beyond Court's jurisdiction, but in British India.
When witness is within local limits of ordinary original civil jurisdiction of a High Court.
387. When witness is not within British India.
388. Court to examine witness pursuant to commission.
389. Commission when executed to be returned to Court issuing it with depositions of witnesses.
390. When depositions may be read in evidence.
391. Provisions as to execution and return of commissions to apply to commissions issued by Foreign Courts.

B.—Commissions for Local Investigations.

392. Commission to make local investigations.
393. Procedure of Commissioner.
Report and depositions to be evidence in suit.
Commissioner may be examined in person.

C.—Commissions to examine Accounts.

394. Commission to examine or adjust accounts.
395. Court to give Commissioner necessary instructions
Proceedings of Commissioner receivable in evidence.
Power to make further enquiry.

D.—Commission to make Partition.

396. Commission to make partition of non-revenue-paying immoveable property.

E.—General Provisions.

SECTIONS.

397. Expenses of commission to be paid into Court.
398. Commissioner may examine parties and witnesses and call for papers.
399. Attendance, examination and punishment of witnesses before Commissioner.
400. Procedure *ex parte* where parties do not appear.

PART III.

OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.

SUITS BY PAUPERS.

401. Suits may be brought *in formâ pauperis*.
402. What suits excepted.
403. Application to be in writing.
Contents of application.
404. Presentation of application.
405. Rejection of application.
406. Examination of applicant.
If presented by agent, Court may order applicant to be examined by commission.
407. Rejection of application.
408. Notice of day for receiving evidence of applicant's pauperism.
409. Procedure at hearing.
410. Procedure if application admitted.
411. Costs when pauper succeeds.
Recovery of court-fees.
412. Procedure when pauper fails.
413. Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.
414. Dispaupering.
415. Costs.

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against Secretary of State in Council.
417. Persons authorized to act for Government.
418. Plaints in suits by Secretary of State in Council.
419. Agent of Government to receive process.
420. Appearance and answer by Secretary of State in Council.
421. Attendance of person able to answer questions relating to suit against Government.
422. Service on public officers.
423. Extension of time to enable officer to make reference to Government.
424. Notice previous to suing Secretary of State in Council or public officer.
425. Arrests in such suits.
426. Application where Government undertakes defence.
427. Procedure where no such application made.
Defendant not liable to arrest before judgment.
428. Exemption of public officers from personal appearance.
429. Procedure where decree is against Government or a public officer.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

SECTIONS.

430. When aliens may sue.
431. When a foreign State may sue.
432. Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.
433. Suits against Sovereign Princes, &c.
Sovereign Princes, &c., exempt from arrest.
When their property may be attached.
434. Execution in British India of decrees or Courts of Native States.

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

435. Subscription and verification of plaint.
436. Service on Corporation or Company.

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437. Representation of beneficiaries in suits concerning property vested in trustees, &c.
438. Joinder of executors and administrators.
439. Husband of married executrix not to join.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

440. Minor must sue by next friend.
Costs.
441. Applications to be made by next friend or guardian *ad litem*.
442. Plaint filed without next friend to be taken off the file.
Costs.
443. Guardian *ad litem* to be appointed by the Court.
444. Order obtained without next friend or guardian may be discharged.
Costs.
445. Who may be next friend.
446. Removal of next friend.
447. Retirement of next friend.
Application for appointment of new next friend.
448. Stay of proceedings on death or removal of next friend.
449. Application for appointment of new next friend.
450. Course to be followed by minor plaintiff or applicant on coming of age.
451. Where he elects to proceed.
452. Where he elects to abandon.
453. Making and proving applications under sections 451, 452.
454. When minor co-plaintiff.
Costs.
455. When suit unreasonable or improper.
Costs.
456. Petition for appointment of guardian *ad litem*.

SECTIONS.

457. Who may be guardian *ad litem*.
458. Guardian neglecting his duty may be removed.
Costs.
459. On death or removal of guardian *pendente lite*, new guardian to be appointed.
460. When decree to be enforced against heir or representative.
461. Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.
462. Next friend or guardian *ad litem* not to compromise without leave of Court.
Compromise without leave voidable.
463. Application of sections 440 to 462 to persons of unsound mind.
464. Wards of Court.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

465. Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.
466. Person so authorized may act personally or appoint pleaders.
467. Service on person so authorized, or on his pleader, to be good service.
468. Service on officers and soldiers.
469. Execution of warrant of arrest in cantonments, &c.

CHAPTER XXXIII.

INTERPLEADER.

470. When interpleader-suit may be instituted.
471. Plaint in such suit.
472. Payment of thing claimed into Court.
473. Procedure at first hearing.
474. When agents and tenants may institute interpleader-suits.
475. Charge of plaintiff's costs.
476. Procedure where a defendant is suing stakeholder.
Costs.

PART IV.

PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

477. When plaintiff may apply that security be taken.
478. Order to bring up defendant to show cause why he should not give security.
479. If defendant fail to show cause, Court may order him to make deposit or give security.
480. Procedure in case of application by surety to be discharged.
481. Procedure where defendant fails to give security or find fresh security.
482. Subsistence of defendant arrested.

B.—Attachment before Judgment.

483. Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.
Contents of application.
SECTIONS.
484. Court may call on defendant to furnish security or show cause.
485. Attachment if cause not shown or security not furnished.
Withdrawal of attachment.
486. Mode of making attachment.
487. Investigation of claims to property attached before judgment.
488. Removal of attachment when security furnished.
489. Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.
490. Property attached under this chapter, not to be re-attached in execution of decree.

C.—Compensation for improper Arrests or Attachments.

491. Compensation for obtaining arrest or attachment on insufficient grounds.
Proviso.

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

492. Cases in which temporary injunction may be granted.
493. Injunction to restrain repetition or continuance of breach.
494. Before granting injunction, Court may direct notice to be given to opposite party.
495. Injunction to corporation binding on its members and officers.
496. Order for injunction may be discharged, varied or set aside.
497. Compensation to defendant for issue of injunction on insufficient grounds.
Proviso.

B.—Interlocutory Orders.

498. Power to order interim sale of perishable articles.
499. Power to make order for detention, &c., of subject-matter and to authorize entry, taking of samples and experiments.
500. Application for such orders to be after notice.
501. When party may be put in immediate possession of land, the subject of suit.
502. Deposit of money, &c., in Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS.

503. Power of Court to appoint Receivers.
Receiver's liabilities.
504. When Collector may be appointed Receiver.
505. Courts empowered under this chapter.

PART V.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.

REFERENCE TO ARBITRATION.

506. Parties to suit may apply for order of reference.

SECTIONS.
507. Nomination of arbitrator.
When Court to nominate arbitrator.
508. Order of reference.
509. When reference is to two or more, order to provide for difference of opinion.
510. Death, incapacity, &c., of arbitrators or umpire.
511. Appointment of umpire by Court.
512. Powers of arbitrator or umpire appointed under sections 509, 510, 511.
513. Summoning witnesses.
Punishment for default, &c.
514. Extension of time for making award.
515. When umpire may arbitrate in lieu of arbitrators.
516. Award to be signed and filed.
517. Arbitrators or umpire may state special case.
518. Court may, on application, modify or correct award in certain cases.
519. Order as to costs of arbitration.
520. When award or matter referred to arbitration may be remitted.
521. Grounds for setting aside award.
522. Judgment to be according to award.
Decree to follow.
523. Agreement to refer to arbitration may be filed in Court.
Application to be numbered and registered.
Notice to show cause against filing it.
524. Provisions of this chapter applicable to proceedings under order of reference.
525. Filing award in matter referred to arbitration without intervention of Court.
Application to be numbered and registered.
Notice to parties to arbitration.
526. Filing and enforcement of such award.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Power to state case for Court's opinion.
528. When value of subject-matter must be stated.
529. Agreement to be filed and numbered as a suit.
530. Parties to be subject to Court's jurisdiction.
531. Hearing and disposal of the case.

CHAPTER XXXIX.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

532. Institution of summary suits upon bills of exchange, &c.
Payment into Court of sum mentioned in summons.
533. Defendant showing defence on merits to have leave to appear.
534. Power to set aside decree.
535. Power to order bill to be deposited with officer of Court.
536. Recovery of cost of noting non-acceptance of dishonoured bill.
537. Procedure in suits under this chapter.
538. Power to extend this chapter.

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

539. When suit relating to public charities may be brought.

PART VI.
OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

SECTIONS.
540. Appeal to lie from all original decrees, except when expressly prohibited.
541. Form of appeal.
Memorandum to be accompanied by copy of decree and judgment.
Memorandum of appeal.
542. Appellant confined to grounds set out.
543. Rejection of memorandum or grounds of objection.
544. One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

Of staying and executing Decrees under Appeal.

545. Execution of decree not stayed solely by reason of appeal.
Stay of execution of appealable decree before time for appealing has expired.
Security required before making order to stay execution.
546. Security in case of order for execution of decree appealed against.
547. No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

548. Registry of memorandum of appeal.
549. Appellate Court may require appellant to give security for costs.
When appellant resides out of British India.
550. Appellate Court to give notice to Court whose decree is appealed against.
Transmission of papers to Appellate Court.
Copies of exhibits in Court whose decree is appealed against.
551. Power to confirm decision of lower Court without sending it notice.
552. Day for hearing appeal.
553. Publication and service of notice of day for hearing appeal.
Appellate Court may itself cause notice to be served.
554. Contents of notice.

Procedure on Hearing.

555. Right to begin.
556. Dismissal of appeal for appellant's default.
Hearing appeal *ex parte*.
557. Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.
Proviso.
558. Re-admission of appeal dismissed for default.
559. Power to adjourn hearing, and direct persons appearing interested to be made respondents.
560. Re-hearing on application of respondent against whom *ex parte* decree is made.
561. Upon hearing respondent may object to decree as if he had preferred separate appeal.
Form of notice, and provisions applicable thereto.

SECTIONS.
562. Remand of case by Appellate Court.
563. When further evidence barred.
564. Limit to remand.
565. When evidence on record sufficient, Appellate Court shall determine case finally.
566. When Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.
567. Finding and evidence to be put on record.
Objections to finding.
Determination of appeal.
568. Production of additional evidence in Appellate Court.
569. Mode of taking additional evidence.
570. Points to be defined and recorded.

Of the Judgment in Appeal.

571. Judgment when and where pronounced.
572. Language of judgment.
573. Translation of judgment.
574. Contents of judgment.
Date and signature.
575. Decision when appeal is heard by two or more Judges.
576. Dissent to be recorded.
577. What judgment may direct.
578. No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

Of the Decree in Appeal.

579. Contents of decree.
Judge dissenting from judgment need not sign decree.
580. Copies of Judgment and decree to be furnished to parties.
581. Certified copy of decree to be sent to Court whose decree is appealed against.
582. Appellate Court to have same powers as Courts of original jurisdiction.
583. Execution of decree of Appellate Court.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECREES.

584. Second appeals to High Court.
Grounds of second appeal.
585. Second appeal only on grounds mentioned in section 584.
586. No second appeal in certain suits.
587. Provisions as to second appeals.

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

588. Orders appealable.
589. Court which shall hear appeals.
590. Procedure in appeals from orders.
591. No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

CHAPTER XLIV.

OF PAUPER APPEALS.

592. Who may appeal as pauper.
Procedure on application for admission of appeal.
593. Enquiry into pauperism.
Proviso.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

SECTIONS.
594. 'Decree' defined.
595. When appeals lie to Queen in Council.
596. Value of subject-matter.
597. Bar of certain appeals.
598. Application to Court whose decree is complained of.
599. Time within which application must be made.
600. Certificate as to value or fitness.
601. Effect of refusal of certificate.
602. Security and deposit required on grant of certificate.
603. Admission of appeal and procedure thereon.
604. Revocation of acceptance of security.
605. Power to order further security or payment.
606. Effect of failure to comply with order.
607. Refund of balance of deposit.
608. Powers of Court pending appeal.
609. Increase of security found inadequate.
610. Procedure to enforce orders of Queen in Council.
611. Appeal against order relating to execution.
612. Power to make rules.
Publication of rules.
613. Legalization of existing rules.
614. Recorder of Rangoon.
615. Construction of Bengal Regulation III of 1828, section 4, clause 5.
616. Saving of Her Majesty's pleasure, and of rules for conduct of business before Judicial Committee.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

SECTIONS.
617. Reference of question to High Court.
618. Court may pass decree contingent upon opinion of High Court.
619. Judgment of High Court to be transmitted, and case disposed of accordingly.
620. Costs of reference to High Court.
621. Power to alter, &c., decrees of Court making reference.
622. Power to call for record of cases decided by Small Cause Courts, or, on appeal, by subordinate Courts.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

623. Application for review of judgment.
624. To whom applications for review may be made.
625. Form of applications for review.
626. Application when rejected.
Application when granted.
Proviso.
627. Application for review in Court consisting of two or more Judges.
628. Application when rejected.

SECTIONS.

629. Order of Court final.

630. Registry of application granted, and order for re-hearing.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This part to apply only to certain High Courts.

632. Application of Code to High Courts.

633. High Court to record judgments according to its own rules.

634. Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

635. Attorneys not to address Court except when authorized.

636. Process of High Courts may be served by attorneys in suit.

637. Non-judicial acts may be done by Registrar.

638. Sections not applying to High Court in original civil jurisdiction.
Code not to affect High Court in exercise of insolvent jurisdiction.

639. Power to frame forms.

PART X.

CHAPTER XLIX.

MISCELLANEOUS.

640. Exemption of certain women from personal appearance.

641. Local Government may exempt certain persons from personal appearance.
List of names of persons exempted to be kept in Subordinate Court.
Costs of commission rendered necessary by claiming privilege.

642. Persons exempt from arrest.

643. Procedure in case of certain offences relating to documents.

644. Use of forms in fourth schedule.

645. Language of subordinate Courts.

646. Power of Registrars of Small Cause Courts to state cases.

647. Miscellaneous proceedings.
Admission of affidavits as evidence.

648. Procedure when person to be arrested or property to be attached is outside the district.

649. Rules applicable to all civil process for sale or payment.

650. Application of rules as to witnesses.

651. Penalty for escaping from custody under Code.

652. Power to make subsidiary rules of procedure.

THE FIRST SCHEDULE.—*A.*—Statute repealed.
B.—Acts repealed.
C.—Regulation repealed.

THE SECOND SCHEDULE.—Chapters and sections extending to Mufassal Courts of Small Causes.

THE THIRD SCHEDULE.—Bombay enactments.

THE FOURTH SCHEDULE.—Forms.

An Act to Consolidate and amend the Laws relating to the Procedure of the Courts of Civil Judicature.

Preamble.

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows:—

PRELIMINARY.

Short title.

Commencement.

1. This Act may be cited as "The Code of Civil Procedure:" and it shall come into force on the first day of October 1877.

Local extent.

This section and section 3 extend to the whole of British India. The other sections extend to the whole of British India except the Scheduled Districts as defined in Act No. XIV of 1874.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context—

"chapter." "chapter" means a chapter of this Code:

"district." "District Court." "district" means the local limits of the jurisdiction of a principal civil Court of original jurisdiction (hereinafter called a 'District Court'), and includes the local limits of the ordinary original civil jurisdiction of a High Court: every Court of a grade inferior to that of a District Court and every Court of Small Causes shall, for the purposes of this Code, be deemed to be subordinate to the High Court and the District Court:

"pleader." "pleader" means every person entitled to appear and plead for another in Court, and includes an advocate, a vakíl and an attorney of a High Court:

"Government Pleader." "Government Pleader" includes also any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader.

"Collector." "Collector" means every officer performing the duties of a Collector of land-revenue:

"judgment." "judgment" means the statement given by the Judge as the grounds of the order or decree by which a suit or other judicial proceeding is determined:

"decree." "decree" means the formal order of the Court in which the result of the decision of the suit or other judicial proceeding is embodied. An order on appeal, remanding a suit for re-trial, is not within this definition:

"Judge." "Judge" means the presiding officer of a Court:

"judgment-debtor." "judgment-debtor" means any person against whom a decree or order has been made:

"decree-holder." "decree-holder" means any person in whose favour a decree or any order capable of execution has been made, and includes any person to whom such decree or order is transferred:

"written." "written" includes printed and lithographed, and "writing" includes print and lithography:

"signed." "signed" includes "marked" when the person making the mark is unable to write his name:

"foreign Court." "foreign Court" means a court situate beyond the limits of British India and not having authority in British India nor established by the Governor General in Council:

"foreign judgment." "foreign judgment" means the judgment of a foreign Court:

"public officer." "public officer" means a person falling under any of the following descriptions (namely):—

Every Judge;

Every covenanted servant of Her Majesty;

Every commissioned officer in the military or naval forces of Her Majesty while serving under Government;

Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties;

Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty.

"Government." And in any part of British India in which this Code operates, "Government" includes the Government of India as well as the Local Government.

Enactments repealed.

3. The enactments specified in the first schedule hereto annexed are hereby repealed to the extent mentioned in the third column of the same schedule.

References in previous Acts.

But when in any Act, Regulation or Notification passed or issued prior to the day on which this Code comes into force, reference is made to Act VIII of 1859, Act XXIII of 1861, or the 'Code of Civil Procedure,' or to any other Act hereby repealed, such reference shall, so far as may be practicable, be read as applying to this Code or the corresponding part thereof;

Saving of procedure in suits instituted before 1st October 1877.

Nothing herein contained shall affect the procedure prior to decree in any suit instituted or appeal presented before this Code comes into force.

Saving of certain Acts affecting Oudh, Panjáb, Central Provinces and Burma.

4. Save as provided in the second paragraph of section 3, nothing herein contained shall be deemed to affect the following enactments (namely):—

The Central Provinces Courts Act, 1865:
The Panjáb Courts Act, 1865:
Act No. XXVII of 1867:
The Oudh Civil Courts Act, 1871:
The Panjáb Appeals Act, 1873:
The Burma Courts Act, 1875:
or any local law prescribing a special procedure for suits between landlord and tenant,
or any local law providing for the partition of immoveable property.

And where under any of the said Acts concurrent civil jurisdiction is given to the Commissioner and the Deputy Commissioner, the Local Government may declare which of such officers shall for the purposes of this Code be deemed to be the District Court.

Sections extending to Mufassal Small Cause Courts.

5. The chapters and sections of this Code specified in the second schedule hereto annexed extend (so far as they are applicable) to Courts of Small Causes constituted under Act No. XI of 1865. The other chapters and sections of this Code do not extend to such Courts. And nothing herein contained shall be deemed to enlarge the powers which such Courts now possess for the purposes of effecting attachments or executing decrees.

Saving of jurisdiction and procedure—

6. Nothing in this Code affects the jurisdiction or procedure—

(*a*) of Military Courts of Request; (*a*) of Military Courts of Request;

(*b*) of officers appointed to try small suits in Bombay; (*b*) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bázárs at cantonments and stations occupied by the troops of that Presidency; or

(*c*) of Village Munsifs and Village Panchâyats in Madras (*c*) of Village Munsifs or Village Panchâyats under the provisions of the Madras Code;

(*d*) of Recorder of Rangoon sitting as an Insolvent Court. (*d*) of the Recorder of Rangoon sitting as an Insolvent Court in Rangoon, Maulmain, Akyab or Bassein,

or shall operate to give any Court jurisdiction over suits of which the amount or value of the subject-matter exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. With respect to—

Saving of certain Bombay laws.

(*a*) the jurisdiction exercised by certain jágírdárs and other authorities invested with powers under the provisions of Bombay Regulation XIII of 1830 and Act XV of 1840 in the cases therein mentioned; and

(*b*) cases of the nature defined in the enactments specified in the third schedule hereto annexed,

the procedure in such cases and in the appeals to the Civil Courts allowed therein, shall be according to the rules laid down in this Code, except where those rules are inconsistent with any specific provisions contained in the enactments mentioned or referred to in this section.

8. Save as provided in sections 3, 25, 86, 223, 225, 386 and chapter XXXIX, this Code shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay.

Presidency Small Cause Courts.

But the Local Government may, by notification published in the official Gazette, extend to any such Court this Code or any part thereof, except so far as relates to appeals and reviews of judgment.

Division of Code.

9. This Code is divided into ten Parts as follows:—

The first Part: Suits in General.
The second Part: Incidental Proceedings.
The third Part: Suits in particular Cases.
The fourth Part: Provisional Remedies.
The fifth Part: Special Proceedings.
The sixth Part: Appeals.
The seventh Part: Reference to and Revision by the High Court.
The eighth Part: Review of Judgment.
The ninth Part: Special Rules relating to the Chartered High Courts.
The tenth Part: Certain Miscellaneous Matters.

PART I.

OF SUITS IN GENERAL.

CHAPTER I.

OF THE JURISDICTION OF THE COURTS AND RES JUDICATA.

No person exempt from jurisdiction by reason of descent or place of birth.

10. No person shall, by reason of his descent or place of birth, be in any civil proceeding exempted from the jurisdiction of any of the Courts.

Courts to try all civil suits unless specially barred.

11. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is barred by any enactment for the time being in force.

Explanation.—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

Pending suits.

12. Except where a suit has been stayed under section 20, the Court shall not try any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit for the same relief between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in British India having jurisdiction to grant such relief, or in any Court beyond the limits of British India established by the Governor General in Council and having like jurisdiction, or before Her Majesty in Council.

Explanation.—The pendency of a suit in a foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

Res judicata.

13. No Court shall try any suit or issue, in which the matter directly and substantially in issue has been heard and finally decided by a Court of competent jurisdiction, in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title.

Explanation I.—The matter above referred to must in the former suit have been alleged by one party and either denied or confessed, expressly or impliedly, by the other.

Explanation II.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation III.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purpose of this section, be deemed to have been refused.

Explanation IV.—A decision is final within the meaning of this section when it is such as the Court making it could not alter (except on review) on the application of either party or reconsider of its own motion. A decision liable to appeal may be final within the meaning of this section until the appeal is made.

Explanation V.—Where persons litigate *bonâ fide* in respect of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purpose of this section, be deemed to claim under the persons so litigating.

Explanation VI.—Where a foreign judgment is relied on, the production of the judgment duly authenticated is presumptive evidence that the Court which made it had competent jurisdiction, unless the contrary appear on the record; but such presumption may be removed by proving the want of jurisdiction.

When foreign judgment no bar to suit in British India.

14. No foreign judgment shall operate as a bar to a suit in British India—

(*a*) if it has not been given on the merits of the case:

(*b*) if it appears on the face of the proceedings to be founded on an incorrect view of international law or of any law in force in British India:

(*c*) if it is in the opinion of the Court before which it is produced contrary to natural justice:

(*d*) if it has been obtained by fraud:

(*e*) if it sustains a claim founded on a breach of any law in force in British India.

CHAPTER II.

OF THE PLACE OF SUING.

Court in which suit to be instituted.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.

Suits to be instituted where subject-matter situate.

16. Subject to the pecuniary or other limitations prescribed by any law, suits

(*a*) for the recovery of immoveable property,

(*b*) for the partition of immoveable property,

(*c*) for the foreclosure or redemption of a mortgage of immoveable property,

(*d*) for the determination of any other right to or interest to or in immoveable property,

(*e*) for compensation for wrong to immoveable property,

(*f*) for the recovery of moveable property actually under distraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Provided that suits to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, when the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction he actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.—In this section 'property' means property situate in British India.

Suits to be instituted where defendants reside or cause of action arose.

17. Subject to the limitations aforesaid, all other suits shall be instituted in a Court within the local limits of whose jurisdiction—

(*a*) the cause of action arises, or

(*b*) all the defendants, at the time of the commencement of the suit, actually and voluntarily reside, or carry on business, or personally work for gain; or

(*c*) any of the defendants, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain: provided that either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain as aforesaid acquiesce in such institution.

Explanation I.—Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

Explanation II.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(*a*.) A is a tradesman in Calcutta. B carries on business in Dehli. B, by his agent in Calcutta, buys goods of A, and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Dehli, where B carries on business.

(*b*.) A resides at Simla, B at Calcutta, and C at Dehli. A, B and C being together at Benares, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Dehli, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot be maintained without the leave of the Court.

Suits for compensation for wrongs to person or moveables.

18. In suits for compensation for wrong done to person or moveable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain within the local limits of the jurisdiction of another Court, the plaintiff may at his option sue in either of the said Courts.

Illustrations.

(*a*) A, residing in Dehli, beats B in Calcutta. B may sue A either in Calcutta or in Dehli.

(*b*.) A, residing in Dehli, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Dehli.

(*c*.) A, travelling on the line of a Railway Company whose principal office is at Howrah, is upset and injured at Allahabad by negligence imputable to the Company. He may sue the Company either at Howrah or at Allahabad.

Suits for immoveable property situate in single districts, but within jurisdictions of different Courts.

19. If the suit be to obtain relief respecting, or compensation for wrong to, immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be instituted in the Court within whose jurisdiction any portion of the property is situate; provided that, in respect of the value of the subject-matter of the suit, the entire claim be cognizable by such Court.

Suits for immoveable property situate in different districts.

If the immoveable property be situate within the limits of different districts, the suit may be instituted in any Court, otherwise competent to try it, within whose jurisdiction any portion of the property is situate.

Power to stay proceedings where all defendants do not reside within jurisdiction.

20. If a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction the defendant or all the defendants does not or do not actually and voluntarily reside, or carry on business, or personally work for gain, the defendant or any defendant may, after giving notice in writing to the other parties of his intention to apply to the Court to stay proceedings, apply to the Court accordingly;

and if the Court, after hearing such of the parties as desire to be heard, is satisfied that justice is more likely to be done by the suit being instituted in some other Court, it may stay proceedings either finally or till further order, and make such order as it thinks fit as to the costs already incurred by the parties or any of them.

In such case, if the plaintiff so requires, the Court shall return the plaint with an endorsement thereon of the order staying proceedings.

Application when to be made.

Every such application shall be made at the earliest possible opportunity, and in all cases before the issues are settled; and any defendant not so applying shall be deemed to have acquiesced in the institution of the suit.

21. Where the Court, under section 20, stays proceedings, and the plaintiff re-institutes his suit in another Court, the plaint shall not be chargeable with any court-fee; provided that the proper fee has been levied on the institution of the suit in the former Court, and that the plaint has been returned by such Court.

Remission of court-fee where suit instituted in another Court.

22. Where a suit may be instituted in more Courts than one, and such Courts are subordinate to the same appellate Court, any defendant, after giving notice in writing to the other parties of his intention to apply to such Court to transfer the suit to another Court, may apply accordingly; and the appellate Court, after hearing the other parties, if they desire to be heard, shall determine in which of the Courts having jurisdiction the suit shall proceed.

Procedure where Courts in which suit may be instituted are subordinate to the same appellate Court.

23. Where such Courts are subordinate to different appellate Courts, but are subordinate to the same High Court, any defendant, after giving notice in writing to the other parties of his intention to apply to the High Court to transfer the suit to another Court having jurisdiction, may apply accordingly. If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate. The High Court may, after considering the objections, if any, of the other parties, determine in which of the Courts having jurisdiction the suit shall proceed.

Procedure where they are not so subordinate.

24. Where such Courts are subordinate to different High Courts, any defendant may, after giving notice in writing to the other parties of his intention to apply to the High Court within whose jurisdiction the Court in which the suit is brought is situate, apply accordingly.

Procedure where they are subordinate to different High Courts.

If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate,

and such High Court shall, after considering the objections, if any, of the other parties, determine in which of the several Courts having jurisdiction the suit shall proceed.

25. The High Court or District Court may, on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, or of its own motion, without giving such notice, withdraw any suit whether pending in a Court of first instance or in a Court of appeal subordinate to such High Court or District Court, as the case may be, and try the suit itself, or transfer it for trial to any other such subordinate Court competent to try the same in respect of its nature and the amount or value of its subject-matter.

Transfer of suits.

For the purposes of this section, the Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

CHAPTER III.

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

26. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the Court in disposing of the costs of the suit otherwise directs.

Persons who may be joined as plaintiffs.

27. Where a suit has been instituted in the name of the wrong person as plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may, if satisfied that the suit has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as the Court thinks just.

Court may substitute or add plaintiff for or to plaintiff suing.

28. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative, in respect of the same matter. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

Persons who may be joined as defendants.

29. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange, hundís and promissory notes.

Joinder of parties liable on same contract.

30. Where there are numerous parties having the same interest in one suit, one or more of such parties may, with the permission of the Court, sue or be sued, or may defend in such suit, on behalf of all parties so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such parties either by personal service or (if from the number of parties or any other cause such service is not reasonably practicable), then by public advertisement, as the Court in each case may direct.

One party may sue or defend on behalf of all in same interest.

31. No suit shall be defeated by reason of the misjoinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Suit not to fail by reason of misjoinder.

Nothing in this section shall be deemed to enable plaintiffs to join in respect of distinct causes of action.

32. The Court may, on or before the first hearing, upon the application of either party, and on such terms as the Court thinks just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out; and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

Court may dismiss or add parties.

No person shall be added as a plaintiff, or as the next friend of a plaintiff, without his own consent thereto.

No one to be added as plaintiff or as next friend without his consent.

Any person on whose behalf a suit is instituted or defended under section 30 may apply to the Court to be made a party to such suit.

Parties to suits instituted or defended under section 30.

All parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned, and (subject to the provisions of the Indian Limitation Act, section 22) the proceedings as against them shall be deemed to have begun only on the service of such summons.

Defendants added to be served.

The Court may give the conduct of the suit to such plaintiff as it deems proper.

Conduct of suit.

33. Where a defendant is added, the plaint, if previously filed, shall, unless the Court direct otherwise, be amended in such manner as may be necessary, and an amended copy of the summons shall be served on the new defendant and the original defendants.

Where defendant added, plaintiff to amend.

34. All objections for want of parties, or for joinder of parties who have no interest in the suit, or for misjoinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the first hearing; and any such objection not so taken shall be deemed to have been waived by the defendant.

Time for taking objections as to non-joinder or misjoinder of parties.

35. When there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding under this Code: and in like manner when there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any such proceeding.

Each of several plaintiffs or defendants may authorize any other to appear, &c., for him.

The authority shall be in writing, signed by the party giving it, and shall be filed in Court.

Authority to be in writing signed and filed.

Recognized Agents and Pleaders.

36. Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party to a suit or appeal in such Court, may, except when otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf:

Appearances, &c., may be in person, by recognized agent or by pleader.

Provided that any such appearance shall be made by the party in person if the Court so direct.

37. The recognized agents of parties by whom such appearances, applications and acts may be made or done are—

Recognized agents.

(*a*) persons holding general powers-of-attorney from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, authorizing them to make and do such appearances, applications and acts on behalf of such parties;

Persons holding powers-of-attorney from parties out of jurisdiction.

(*b*) mukhtárs duly certificated under any law, for the time being in force and holding special powers-of-attorney authorizing them to do, on behalf of their principals, such acts as may legally be done by mukhtárs;

Certificated mukhtárs.

(*c*) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

Persons carrying on trade or business for parties out of jurisdiction.

Nothing in the former part of this section applies to the territories now administered respectively by the Lieutenant Governor of the Panjáb, and the Chief Commissioners of Oudh and the Central Provinces; but in those territories the recognized agents of parties by whom such appearances, applications and acts may be made and done shall be such persons as the Local Government may from time to time, by notification in the official Gazette, declare in this behalf.

Recognized agents in Panjáb, Oudh and Central Provinces.

38. Processes served on the recognized agent of a party to a suit or appeal shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

Service of process on recognized agent.

The provisions of this Code for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

39. The appointment of a pleader to make or do any appearance, application or act as aforesaid shall be in writing, and such appointment shall be filed in court.

Appointment of pleader.

When so filed, it shall be considered to be in force until revoked with the leave of the Court, by a writing signed by the client and filed in Court, or until the client or the pleader dies, or all proceedings in the suit are ended so far as regards the client.

No advocate of any High Court established by Royal Charter shall be required to present any document empowering him to act.

40. Processes served on the pleader of any party or left at the office or ordinary residence of such pleader, relative to a suit or appeal, and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents; and, unless the Court otherwise directs, shall be as effectual for all purposes in relation to the suit or appeal as if the same had been given to or served on the party in person.

Service of process on pleader.

41. Besides the recognized agents described in section 37, any person residing within the jurisdiction of the Court may be appointed an agent to accept service of process.

Agent to receive process.

Such appointment may be special or general and shall be made by an instrument in writing signed by the principal, and such instrument, or, if the appointment be general, a duly attested copy thereof, shall be filed in Court.

His appointment to be in writing and to be filed in Court.

CHAPTER IV.

OF THE FRAME OF THE SUIT.

42. Every suit shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them.

Suit how to be framed.

43. Every suit shall include the whole of the claim arising out of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

Suit to include the whole claim.

If a plaintiff omit to sue for, or intentionally relinquish, any portion of his claim, he shall not afterwards sue for the portion so omitted or relinquished.

Relinquishment of part of claim.

A person entitled to more than one remedy in respect of the same claim may sue for all or any of his remedies; but if he omits (except with the leave of the Court obtained before the first hearing) to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

Omission to sue for one of several remedies.

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years 1874 and 1875 is due and unpaid. A sues B only for the rent due for 1875. A shall not afterwards sue B for the rent due for 1876.

44. *Rule a.*—No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immoveable property, or to obtain a declaration of title to immoveable property, except—

Only certain claims to be joined with suit for recovery of land.

(*a*) claims in respect of mesne profits or arrears of rent in respect of the property claimed,

(*b*) damages for breach of any contract under which the property or any part thereof are or is held, and

(*c*) claims by a mortgagee to enforce any of his remedies under the mortgage.

Rule b.—No claim by or against an executor, administrator or heir as such, shall be joined with claims by or against him personally, unless the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir.

Claims by or against executor, administrator, or heir.

45. Subject to the rules contained in section 44, the plaintiff may unite in the same suit several causes of action, and any plaintiffs having causes of action against the same defendant or defendants, may unite such causes of action in the same suit.

Plaintiff may join several causes of action.

But if it appear to the Court that any such causes of action cannot be conveniently tried or disposed of together, the Court may, at any time before the first hearing, of its own motion or on the application of the defendant, order separate trials of any such causes of action to be had, or make such other order as may be necessary or expedient for the separate disposal thereof.

Court may order separation.

When causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit, whether or not an order has been made under the second paragraph of this section.

46. Any defendant alleging that the plaintiff has united in the same suit several causes of action which cannot be conveniently disposed of in one suit may at any time before the first hearing, or, where issues are settled, before any evidence is recorded, apply to the Court for an order confining the suit to such of the causes of action as may be conveniently disposed of in one suit.

Defendant may apply to confine suit.

47. If, on the hearing of such application, it appears to the Court that the causes of action are such as cannot all be conveniently disposed of in one suit, the Court may order any of such causes of action to be excluded, and may direct the plaint to be amended accordingly, and may make such order as to costs as may be just.

Court on hearing application may exclude some causes and order amendment.

Every amendment made under this section shall be attested by the signature of the Judge.

CHAPTER V.

OF THE INSTITUTION OF SUITS.

48. Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

Suits to be commenced by plaint.

49. The plaint must be distinctly written in the language of the Court; provided that if such language is not English, the plaint may (with the permission of the Court) be written in English; but in such case, if the defendant so require, a translation of the plaint into the language of the Court shall be filed in court.

Language of plaint.

50. The plaint must contain the following particulars:—

Particulars to be contained in plaint.

(*a*) the name of the Court in which the suit is brought;

(*b*) the name, description and place of abode of the plaintiff;

(*c*) the name, description and place of abode of the defendant, so far as they can be ascertained:

(*d*) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose;

(*e*) a demand of the relief which the plaintiff claims; and

(*f*) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

If the plaintiff seek the recovery of money, the plaint must state the precise amount, so far as the case admits.

In money-suits.

In a suit for mesne profits: and in a suit for the amount which will be found due to the plaintiff on taking unsettled accounts between him and the defendant the plaint need only state approximately the amount sued for.

When the plaintiff sues in a representative character, the plaint should shew, not only that he has an actual existing interest in the subject-matter, but that he has taken the steps necessary to enable him to institute a suit concerning it.

Where plaintiff sues as a representative.

Illustrations.

(*a*) A sues as B's executor. The plaint must state that A has proved B's will.

(*b*) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(*c*) A sues as guardian of D, a Muhammadan minor. A is not D's guardian according to Muhammadan law and usage. The plaint must state that A has been specially appointed D's guardian.

The plaint must shew that the defendant is or claims to be interested in the subject-matter, and that he is liable to be called upon to answer the plaintiff's demand.

Defendant's interest and liability to be shewn.

Illustration.

A dies leaving B his executor, C his legatee, and D a debtor to A's estate. C sues D to compel him to pay his debt in satisfaction of C's legacy. The plaint must shew that B has causelessly refused to sue D, or that B and D have colluded for the purpose of defrauding C, or other such circumstances rendering D liable to C.

If the cause of action arose beyond the period ordinarily allowed by any law for instituting the suit, the plaint must shew the ground upon which exemption from such law is claimed.

Grounds of exemption from limitation law.

51. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff or, with the permission of the Court, by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case.

Plaint to be subscribed and verified.

52. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to matters stated on information and belief, and that as to those matters he believes it to be true.

Contents of verification.

The verification shall be signed by the person making it, and when he makes it out of court he shall sign it in the presence of a witness, who shall also sign it.

Verification to be signed and attested.

The Court shall examine such witness as to the fact of the signature, unless the person making the verification is present.

53. The plaint may, at the discretion of the Court, and at or before the first hearing, be rejected, returned for amendment within a time to be fixed by the Court, or amended then and there, upon such terms as to the payment of costs occasioned by the amendment as the Court thinks fit,

When the plaint may be rejected, returned for amendment, or amended.

(*a*) if it do not state correctly and without prolixity the several particulars hereinbefore required to be specified therein; or

(*b*) if it contain any particulars other than those so required; or

(*c*) if it be not subscribed and verified as hereinbefore required; or

(*d*) if it do not disclose a cause of action; or

(*e*) if it is not framed in accordance with section 42; or

(*f*) if it is wrongly framed by reason of non-joinder or misjoinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same suit.

Provided that a plaint cannot be altered so as to convert a suit of one character into a suit of another and inconsistent character.

Proviso.

When a plaint is amended, the amendment shall be attested by the signature of the Judge.

Attestation of amendment.

54. The plaint shall be rejected in the following cases:—

When the plaint shall be rejected.

(*a*) if the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so:

(*b*) if the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so:

(*c*) if the suit appear from the statement in the plaint to be barred by any positive rule of law:

(*d*) if the plaint having been returned for amendment within a time fixed by the Court is not amended within such time.

55. When a plaint is rejected, the Judge shall record with his own hand an order to that effect with the reason for such order.

Procedure on rejecting a plaint.

56. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

When rejection of plaint does not preclude presentation of fresh plaint.

When the plaint shall be returned to be presented to the proper Court.

57. The plaint shall be returned to be presented to the proper Court in the following cases:

(*a*) If a suit has been instituted in a Court whose grade is lower or higher than that of the Court competent to try it, where such Court exists, or where no option as to the selection of the Court is allowed by law:

(*b*) If, in a suit relating to immoveable property, but not coming under the proviso to section 16, it appear that no part of such property is situate within the local limits of the jurisdiction of the Court to which the plaint is presented:

(*c*) If, in any other case, it appear that the cause of action did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

Procedure on returning plaint.

On returning a plaint, the Judge shall, with his own hand, endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reason for returning it.

Procedure on admitting plaint.

58. The plaintiff shall endorse on the plaint, or annex thereto, a memorandum of the documents (if any) which he has filed along with it; and if the plaint be admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permit him to present a like number of concise statements of the nature of the claim made, or of the relief or remedy required in the suit, in which case he shall present such statements.

Concise statements.

If the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

The chief ministerial officer of the Court shall sign such memorandum and copies or statements if, on examination, he finds them to be correct.

Register of suits.

The Court shall also cause the particulars mentioned in section 50 to be entered in a book to be kept for the purpose and called the Register of civil suits. Such entries shall be numbered in every year according to the order in which the plaint is admitted.

Production of document on which plaintiff sues.

Delivery of document or copy.

59. If a plaintiff sue upon a document in his possession or power, he shall produce it in Court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

List of other documents.

If he rely on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

Statement in case of documents not in his possession or power.

60. In the case of any such document not in his possession or power, he shall, if possible, state in whose possession or power it is.

Suits on lost negotiable instruments.

61. In case of any suit founded upon a bill of exchange or other negotiable instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Production of shop-book.

62. If the document on which the plaintiff sues be an entry in a shop-book or other book in his possession or power, the plaintiff shall produce the book at the time of filing the plaint, together with a copy of the entry on which he relies.

Original entry to be marked and returned.

The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original and attesting the copy if found correct, shall return the book to the plaintiff and cause the copy to be filed.

Inadmissibility of document not produced when plaint filed.

63. A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

Nothing in this section applies to documents produced for cross-examination of the defendant's witnesses, or in answer to any case set up by the defendant, or handed to a witness merely to refresh his memory.

CHAPTER VI.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

Summons.

64. When the plaint has been registered, and the copies or concise statements required by section 58 have been filed, a summons may be issued to each defendant to appear and answer the claim on a day to be therein specified, or as soon thereafter as may be practicable,

(*a*) in person, or

(*b*) by a pleader duly instructed and able to answer all material questions relating to the suit, or

(*c*) by a pleader accompanied by some other person able to answer all such questions.

Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court:

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

Copy or statement annexed to summons.

65. Every such summons shall be accompanied with one of the copies or concise statements mentioned in section 58.

Court may order defendant or plaintiff to appear in person.

66. If the Court see reason to require the personal appearance of the defendant, the summons shall order him to appear in person in Court on the day therein specified.

If the Court see reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance.

No party to be ordered to appear in person unless resident within 50 or, where there is a railway, 200 miles.

67. No party shall be ordered to appear in person unless he resides

(*a*) within the local limit of the Court's ordinary original jurisdiction, or

(*b*) without such limits and at a place less than fifty, or, where there is railway-communication for five-sixths of the distance between the place where he resides and the place where the Court is situate, two hundred miles from the Court-house.

Summons to be either to settle issues or for final disposal.

68. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit; and the summons shall contain a direction accordingly:

Provided that, in every suit cognizable by Courts of Small Causes, the summons shall be for the final disposal of the suit.

Fixing day for appearance of defendant.

69. The day for the appearance of the defendant shall be fixed by the Court with reference to its current business, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

What shall be deemed 'sufficient time' must be determined with reference to the circumstances of the case.

Summons to order defendant to produce documents required by plaintiff or relied on by defendant.

70. The summons to appear and answer shall order the defendant to produce any document in his possession or power, containing evidence relating to the merits of the plaintiff's case, or upon which the defendant intends to rely in support of his case.

On issue of summons or final disposal, parties to be directed to produce their witnesses.

71. When the summons is for the final disposal of the suit, it shall direct the defendant to produce, on the day fixed for his appearance, the witnesses upon whose evidence he intends to rely in support of his case.

Service of Summons.

Delivery of summons for service.

72. The summons shall be delivered to the proper officer of the Court, to be served by him or one of his subordinates.

Mode of service.

73. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.

Service on several defendants.

74. When there are more defendants than one, service of the summons shall be made on each defendant:

Provided that, if the defendants are partners, and the suit relates to a partnership-transaction or to an actionable wrong in respect of which relief is claimable from the firm, the service may be made, unless the Court directs otherwise, either (*a*) on one defendant for himself and for the other defendants, or (*b*) on any person having the management of the business of the partnership at the principal place, within the local limits of the Court's ordinary original civil jurisdiction, of such business.

Service to be on defendant in person, when practicable, or on his agent.

75. Whenever it may be practicable, the service shall be made on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Service on agent by whom defendant carries on business.

76. In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons issues, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

For the purpose of this section, the master of a ship is the agent of his owner or charterer.

Service on agent in charge, in suits for immoveable property.

77. In a suit to obtain relief respecting, or compensation for wrong to, immoveable property, if the service cannot be made on the defendant in person, and the defendant have no agent empowered to accept the service, it may be made on any agent of the defendant in charge of the property.

When service may be on male member of defendant's family.

78. If in any suit the defendant cannot be found and if he have no agent empowered to accept the service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this section.

Person served to sign acknowledgment.

79. When the serving-officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

80. If the defendant or other person refuse to sign the acknowledgment or to receive the copy of the summons,

Procedure when defendant refuses to accept service,

or if the serving-officer cannot find the defendant,

or cannot be found.

and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

the serving-officer shall affix a copy of the summons on the outer door of the house in which the defendant ordinarily resides and then return the original to the Court from which it issued, with an endorsement thereon stating that he has so affixed the copy and the circumstances under which he did so.

81. The serving-officer shall, in all cases in which the summons has been served under section 79, endorse or cause to be endorsed on the original summons, the time when and the manner in which the summons was served.

Endorsement of time and manner of service.

82. When a summons is returned under section 80, the Court shall examine the serving-officer on oath touching his proceedings and may make such further enquiry in the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

Examination of serving officer.

Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding the service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house, if any, in which the defendant is known to have last resided, or in such other manner as the Court thinks fit.

Substituted service.

83. The service substituted by order of the Court, shall be as effectual as if it had been made on the defendant personally.

Effect of substituted service.

84. Whenever service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

When service is substituted, time for appearance to be fixed.

85. If the defendant resides within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent resident within the local limits of the jurisdiction of the latter Court empowered to accept the service of the summons, such Court shall send the summons, either by one of its officers or by post, to any Court, not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be conveniently served, and shall fix such time for the appearance of the defendant as the case may require.

Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.

The Court to which the summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court and shall then return the summons to the Court from which it originally issued, together with the record (if any) made under this paragraph.

86. Whenever any process issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such town, it shall be sent to the Court of Small Causes within whose jurisdiction the process is to be served,

Service within Presidency towns and Rangoon of process issued by Mufassal Courts.

and such Court of Small Causes shall deal with such process in the same manner as if the process had been issued by itself,

and shall then return the process to the Court from which it issued.

87. If the defendant be in jail, the summons shall be delivered to the officer in charge of the jail in which the defendant is confined, and such officer shall cause the summons to be served upon the defendant.

Service on defendant in jail.

The summons shall be returned to the Court from which it issued, with a statement of the service endorsed thereon and signed by the officer in charge of the jail and by the defendant.

88. If the jail in which the defendant is confined is not in the district in which the suit is instituted, the summons may be sent by post or otherwise to the officer in charge of such jail, and such officer shall cause the summons to be served upon the defendant, and shall return the summons to the Court from which it issued, with a statement of the service endorsed thereon, and signed as provided in section 87.

Procedure if jail be in a different district.

89. If the defendant resides out of British India, and has no agent in British India empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing, and forwarded to him by post if there be postal communication between such place and the place where the Court is situate.

Service when defendant resides out of British India and has no agent to accept service.

90. If there be a British Resident or Agent of Government in or for the territory in which the defendant resides, the summons may be sent to such Resident or Agent, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident or Agent return the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be conclusive evidence of the service.

Service through British Resident or Agent of Government.

91. The Court may, notwithstanding anything hereinbefore contained, substitute for the summons a letter signed by the Judge or such officer as he appoints in this behalf, when the defendant is, in the opinion of the Court, of a rank which entitles him to such mark of consideration.

Substitution of letter for summons.

The letter shall contain all the particulars required to be stated in the summons, and, subject to the provisions contained in section 92, shall be treated in all respects as a summons.

92. When a letter is so substituted for a summons, it may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; unless the defendant has an agent empowered to accept service of summons, in which case the letter may be delivered or sent to such agent.

Mode of sending such letter.

Service of Process.

93. Every process issued under this Code shall be served at the expense of the party on whose behalf it is issued, unless the Court otherwise directs.

Process to be served at expense of party issuing it.

The court-fee leviable for such service shall be levied before the process is issued.

Costs of service.

94. All notices and orders required by this Code to be given to or served on any person shall be in writing, and shall be served in the manner hereinbefore provided for the service of summons.

Notices and orders in writing how served.

Postage.

95. Postage, where chargeable on any notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid before the communication is forwarded.

Postage.

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

96. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by their respective pleaders, and the suit shall then be heard, unless the hearing be adjourned to a future day fixed by the Court.

Parties to appear on day fixed in summons for defendant to appear and answer.

97. If on the day so fixed for the defendant to appear and answer, it be found that the summons has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee leviable for such service, the Court may order that the suit be dismissed:

Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing it.

Provided that no such order shall be passed, although the summons has not been served upon the defendant, if, on the day fixed for him to appear and answer, he attends in person or by a duly authorized agent, when he is allowed to appear by agent.

Proviso.

98. If on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit is adjourned, neither party appears, the suit shall be dismissed, unless the Judge, for reasons to be recorded under his hand, otherwise directs.

If neither party appear, suit to be dismissed.

99. Whenever a suit is dismissed under section 97 or section 98, the plaintiff may (subject to the law of limitation) bring a fresh suit; or if, within the period of thirty days from the date of the order dismissing the suit, he satisfies the Court that there was a sufficient excuse for his not paying the court-fee required within the time allowed for the service of the summons or for his non-appearance, as the case may be, the Court shall pass an order to set aside the dismissal and appoint a day for proceeding with the suit.

In such case plaintiff may bring fresh suit;

or Court may restore the suit to its file.

100. If the plaintiff appears and the defendant does not appear, the procedure shall be as follows:

Procedure if only plaintiff appear.

when summons was duly served.

(*a*) if it is proved that the summons was duly served, the Court may proceed *ex parte*:

(*b*). If it is not proved that the summons was duly served, the Court shall direct a second summons to be issued and served on the defendant:

when summons not duly served.

(*c*) If it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

when summons served, but not in due time.

If it is owing to the plaintiff's default that the summons was not served in sufficient time, the Court shall order him to pay the costs occasioned by such postponement.

101. If the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.

102. If the defendant appears and the plaintiff does not appear, the Court shall dismiss the suit, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

Procedure where defendant only appears.

103. When a suit is wholly or partially dismissed under this section, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside; and if it be proved that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall set aside the dismissal upon such terms as

Decree against plaintiff by default bars fresh suit.

to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

No order shall be made under the second paragraph of this section unless the plaintiff has served the defendant with notice in writing of his application.

Procedure where defendant residing out of British India does not appear.

104. If, on the day fixed for the hearing of a suit against a defendant residing out of British India, who has no agent empowered to accept service of summons, or on any day to which the hearing has been adjourned, the defendant does not appear, the plaintiff may apply to the Court for permission to proceed with his suit, and the Court may direct that the plaintiff be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

Procedure in case of non-attendance of one or more of several plaintiffs.

105. If there be more plaintiffs than one, and one or more of them appear, and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way as if all the plaintiffs had appeared, and pass such order as it thinks fit.

Procedure in case of non-attendance of one or more of several defendants.

106. If there be more defendants than one, and one or more of them appear, and the others do not appear, the suit shall proceed, and the Court shall, at the time of passing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

Consequence of non-attendance, without sufficient cause shewn, of party ordered to appear in person.

107. If a plaintiff or defendant, who has been ordered to appear in person under the provisions of section 66 or section 436, does not appear in person, or shew sufficient cause to the satisfaction of the Court for failing so to appear, he shall be subject to all the provisions of the foregoing sections applicable to plaintiffs and defendants, respectively, who do not appear.

Of setting aside Decrees ex parte.

Setting aside decree *ex parte* against defendant.

108. In any case in which a decree is passed *ex parte* against a defendant under section 100, he may apply to the Court by which the decree was made for an order to set it aside;

and if it be proved to the satisfaction of the Court that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the decree upon such terms as to costs, payment into Court, or otherwise, as it thinks fit, and shall appoint a day for proceeding with the suit.

No decree to be set aside, without notice to opposite party.

109. No decree shall be set aside on any such application as aforesaid, unless notice thereof in writing has been served on the opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

Written statements.

110. The parties may, at any time before or at the first hearing of the suit, tender written statements of their respective cases, and the Court shall receive such statements and place them on the record.

Particulars of set-off to be given in written statement.

111. If in a suit for the recovery of money the defendant claims to set-off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, and if in such claim of the defendant against the plaintiff both parties fill the same character as they fill in the plaintiff's suit, the defendant may, at the first hearing of the suit, but not afterwards, unless permitted by the Court, tender a written statement containing the particulars of the debt sought to be set-off.

Inquiry.

The Court shall thereupon inquire into the same, and if it find that the case fulfils the requirements of the former part of this section, and that the amount claimed to be set-off does not exceed the pecuniary limits of its jurisdiction, the Court shall set-off the one debt against the other.

Effect of set-off.

Such set-off shall have the same effect as a plaint in a cross-suit, so as to enable the Court to pronounce a final judgment in the same suit, both on the original and on the cross-claim; but it shall not affect the lien upon the amount decreed of any pleader in respect of the costs payable to him under the decree.

Illustrations.

(*a*) A bequeaths Rs. 2,000 to B, and appoints C his executor and residuary legatee. B dies and D takes out administration to B's effects. C pays Rs. 1,000 as surety for D. Then D sues C for the legacy. C cannot set-off the debt of Rs. 1,000 against the legacy, for neither C nor D fills the same character with respect to the legacy as they fill with respect to the payment of the Rs. 1,000.

(*b*) A dies intestate and in debt to B. C takes out administration to A's effects, and B buys part of the effects from C. In a suit for the purchase-money by C against B, the latter cannot set-off the debt against the price, for C fills two different characters, one as the vendor to B, in which he sues B, and the other as representative to A.

(*c*) A sues B on a bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set-off. The amount not being ascertained cannot be set-off.

(*d*) A sues B on a bill of exchange for Rs. 500. B holds a judgment against A for Rs. 1,000. The two claims being both definite pecuniary demands may be set-off.

(*e*) A sues B for compensation on account of a trespass. B holds a promissory note for Rs. 1,000 from A and claims to set-off that amount against any sum that A may recover in the suit. B may do so, for as soon as A recovers, both sums are definite pecuniary demands.

(*f*) A and B sue C for Rs. 1,000. C cannot set-off a debt due to him by A alone.

(*g*) A sues B and C for Rs. 1,000. B cannot set-off a debt due to him alone by A.

(*h*) A owes the partnership firm of B and C Rs. 1,000. B dies leaving C surviving. A sues C for a debt of Rs. 1,500 due in his separate character. C may set-off the debt of Rs. 1,000.

No written statement to be received after first hearing unless called for by Court.

Court may at any time call for written statement.

112. Except as provided in the last preceding section, no written statement shall be received after the first hearing of the suit:

Provided that the Court may at any time require a written statement, or additional written statement, from any of the parties, and fix a time for presenting the same:

Provided also that a written statement, or an additional written statement, may, with the permission of the Court, be received at any time for the purpose of answering written statements so required and presented.

Procedure when party fails to present written statement called for by Court.

113. If any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pass a decree against him, or make such other order in relation to the suit as it thinks fit.

Frame of written statements.

114. Written statements shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as much as possible to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he either admits or believes he will be able to prove.

Every such statement shall be divided into paragraphs, numbered consecutively, and each paragraph containing as nearly as may be a separate allegation.

Written statements to be subscribed and verified.

115. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received unless it be so subscribed and verified.

The provisions of section 52 as to examining witnesses as to the fact of signature shall apply in the case of written statements.

Rejection of argumentative, prolix or irrelevant written statements.

116. If it appear to the Court that any written statement, whether called for by the Court or spontaneously tendered, is argumentative or prolix, or contains matter irrelevant to the suit, the Court may amend it then and there, or may, by an order to be endorsed thereon, reject the same, or return it to the party by whom it was made for amendment within a time to be fixed by the Court, imposing such terms as to costs or otherwise as the Court thinks fit.

Attestation of amendments.

When any amendment is made under this section, the Judge shall attest it by his signature.

Effect of rejection.

When a statement has been rejected under this section, the party making it shall not present another written statement, unless it be expressly called for or allowed by the Court.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

Ascertainment from each party whether allegations in written statements are admitted or denied.

117. At the first hearing of the suit, the Court shall ascertain from the defendant or his pleader whether he admits or denies the allegations of fact made in the plaint and shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

Oral examination of party, or companion of himself or his pleader.

118. At the first hearing of the suit, or at any subsequent hearing, any party appearing in person or present in Court, or any person able to answer any material questions relating to the suit by whom such party or his pleader is accompanied, may be examined orally by the Court; and the Court may, if it thinks fit, put in the course of such examination questions suggested by either party.

Substance of examination to be written.

119. The substance of the examination shall be reduced to writing by the Judge, and shall form part of the record.

Consequence of refusal or inability of pleader to answer.

120. If the pleader of any party who appears by a pleader refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall appear in person on such day.

If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pass a decree against him, or make such order in relation to the suit as it thinks fit.

CHAPTER X.

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

Power to deliver interrogatories.

121. Any party may at any time by leave of the Court, deliver through the Court interrogatories in writing for the examination of the opposite party, or where there are more opposite parties than one, any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the Court, and that no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered a written statement and such statement has been received and placed on the record.

122. Interrogatories delivered under section 121 shall be served on the pleader (if any) of the party interrogated or in the manner hereinbefore provided for the service of summons, and the provisions of sections 79, 80, 81 and 82 shall, in the latter case, apply so far as may be practicable.

Service of interrogatories.

123. The Court, in adjusting the costs of the suit, shall, at the instance of any party, inquire or cause inquiry to be made into the propriety of delivering such interrogatories; and if it thinks that such interrogatories have been delivered unreasonably, vexatiously or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

Inquiry into propriety of exhibiting interrogatories.

124. If any party to a suit be a body corporate or a joint stock company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in his own name or in the name of any officer or other person, any opposite party may apply to the Court for an order allowing him to deliver interrogatories to any member or officer of such corporation, company or body, and an order may be made accordingly.

Service of interrogatories on officer of corporation or company.

125. Any party called upon to answer interrogatories, whether by himself or by any such member or officer, may refuse to answer any interrogatory on the ground that it is irrelevant, or is not put *bonâ fide* for the purposes of the suit, or that the matter inquired after is not sufficiently material at that stage of the suit, or on any other like ground.

Power to strike out interrogatories as irrelevant, &c.

126. Interrogatories shall be answered by affidavit to be filed in Court within ten days from the service thereof or within such further time as the Judge may allow.

Time for filing affidavit in answer.

127. If any person interrogated omits or refuses to answer, or answers insufficiently, any interrogatory, the party interrogating may apply to the Court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further either by affidavit or by *viva voce* examination as the Judge may direct: Provided that the Judge shall not require an answer to any interrogatory which in his opinion need not have been answered under section 125.

Procedure where a party omits to answer sufficiently.

128. Either party may, by a notice through the Court, within a reasonable time not less than ten days before the hearing, require the other party to admit (saving all just exceptions to the admissibility of such document in evidence) the genuineness of any document material to the suit.

Power to demand admission of genuineness of documents.

The admission shall also be made in writing, signed by the other party or his pleader and filed in Court.

If such notice be not given, no costs of proving such document shall be allowed, unless the Judge otherwise orders.

If such notice is not complied with within four days after its being served, and the Judge thinks it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever may be the result of the suit.

129. The Court may, at any time during the pendency therein of any suit, order any party to the suit to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the suit, and any party to the suit may, at any time before the first hearing, apply to the Court for a like order.

Application for order for discovery of document.

Every affidavit made under this section shall specify which, if any, of the documents therein mentioned the declarant objects to produce, together with the grounds of such objection.

Affidavit in answer to such order.

130. The Court may, at any time during the pendency therein of any suit, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such suit or proceeding as the Court thinks right; and the Court may deal with such documents when produced in such manner as appears just.

Power to order production of documents during suit.

131. Every party to a suit may at any time before or at the hearing thereof give notice through the Court to any other party in whose plaint, written statement or affidavits reference is made to any document, to produce such document in the presence of such officer as the Court appoints in this behalf, for the inspection of the party giving such notice or of his pleader, and to permit such party or pleader to take copies thereof.

Notice to produce for inspection documents referred to in plaint, &c.

No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in such suit, unless he satisfies the Court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with such notice.

Consequence of non-compliance with such notice.

132. The party to whom such notice is given shall, within ten days from the receipt thereof, deliver through the Court to the party giving the same a notice stating a time within three days from such delivery at which the documents or such of them as he does not object to produce, may be inspected at his pleader's office or some other convenient place, and stating which, if any, of the documents he objects to produce, and on what grounds.

Party receiving such notice to deliver notice when and where inspection may be had.

133. If any party served with notice under section 131 omits to give notice under section 132 of the time for inspection, or objects to give inspection, or names an inconvenient place for inspection, the party desiring it may apply to the Court for an order of inspection.

Application for order of inspection.

134. Except in the case of documents referred to in the plaint, written statement, or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit shewing (*a*) of what documents inspection is sought, (*b*) that the party applying is entitled to inspect them, and (*c*) that they are in the possession or power of the party against whom the application is made.

Application to be founded on affidavit.

135. If the party from whom discovery of any kind or inspection is sought, objects to the same or any part thereof, and if the Court is satisfied that the right to such discovery or inspection depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any such issue or question should be determined before deciding upon the right to the discovery or inspection, the Court may order that the issue or question be determined first and reserve the question as to the discovery or inspection.

Power to order issue or question on which right to discovery depends to be first determined.

136. If any party fail to comply with any order under this chapter to answer interrogatories or for discovery or inspection, which has been duly served, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not appeared and answered;

and the party interrogating or seeking discovery or inspection may apply to the Court for an order to that effect, and the Court may make such order accordingly.

Any party failing to comply with any order under this chapter to answer interrogatories or for discovery or inspection which has been served personally upon him, shall also be deemed guilty of an offence under section 188 of the Indian Penal Code.

Consequences of failure to answer or give inspection.

137. The Court may, of its own accord, and may, in its discretion, upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

Every application made under this section shall (unless the Court otherwise directs) be supported by an affidavit of the applicant or his pleader, shewing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice.

Court may send for papers from its own records or from other Courts.

Nothing contained in this section shall be deemed to enable the Court to use in evidence any document which under the Indian Evidence Act would be inadmissible in the suit.

138. The parties or their pleaders shall bring with them and have in readiness at the first hearing of the suit, to be produced when called for by the Court, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court at any time before such hearing has ordered to be produced.

Documentary evidence to be in readiness at first hearing.

139. No documentary evidence in the possession or power of any party the production of which has been called for under section 138, and which has not been produced, shall be received at any subsequent stage of the proceedings unless good cause be shewn to the satisfaction of the Court for the non-production thereof. And the Judge receiving any such evidence shall record his reasons for so doing.

Effect of non-production of documents.

140. The Court shall receive the documents respectively produced by the parties at the first hearing, provided that the documents produced by each party be accompanied by an accurate list thereof prepared in such form as the High Court may from time to time direct.

Documents to be received by Court.

The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Rejection of irrelevant or inadmissible documents.

141. No document shall be placed on the record unless it has been proved or admitted in accordance with the law of evidence for the time being in force. Every document so proved or admitted shall be endorsed with the number and title of the suit, the name of the person producing it, and the date on which it was produced. The Judge shall then endorse with his own hand a statement that it was proved against or admitted by (as the case may be) the person against whom it is used. The document shall then be filed as part of the record:

No documents to be placed on record unless proved.

Proved documents to be marked and filed.

Provided that, if the document be an entry in a shop-book or other book, the party on whose behalf such book is produced may furnish a copy of the entry, which may be endorsed as aforesaid, and shall be filed as part of the record, and the Court shall mark the entry and shall then return the book to the person producing it.

Entries in shop-books.

All documents produced at the first hearing and not so proved or admitted shall be returned to the parties respectively producing them.

142. When a document so proved or admitted is relied on as evidence by either party, but the Court considers it inadmissible, it shall be further endorsed with the addition of the word "rejected," and the endorsement shall be signed by the Judge.

Rejected documents to be marked,

The document shall then be returned to the party who produced it.

and returned, unless detained by Court.

Court may order any document to be impounded.

143. Notwithstanding anything contained in sections 62, 141 and 142, the Court may, if it see sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

After lapse of time for appeal, document admitted in evidence may be returned.

144. In suits in which an appeal is not allowed, when the suit has been disposed of, and in suits in which an appeal is allowed, when the time for preferring an appeal from the decree has elapsed, or, if an appeal has been preferred, then after the appeal has been disposed of, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit, and placed on the record, shall, unless the document is impounded under section 143, be entitled to receive back the same:

Provided that a document may be returned at any time before either of such events, if the person applying for such return delivers to the proper officer a certified copy of such document to be substituted for the original:

When document may be returned before time limited.

Provided also that no document shall be returned which, by force of the decree, has become void or useless.

Document not to be returned in certain cases.

On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving it, in a receipt-book to be kept for the purpose.

Receipt to be given for returned document.

145. The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

Provisions as to documents applied to material objects.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

Framing of issues.

146. Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

Material propositions are those propositions of law or fact which a plaintiff must allege in order to shew a right to sue.

Each material proposition affirmed by one party and denied by the other must form the subject of a distinct issue.

Issues are of two kinds: (*a*) issues of fact, (*b*) issues of law.

At the first hearing of the suit, the Court shall, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to the Court to depend.

When issues both of law and of fact arise in the same suit, and the Court is of opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

Nothing in this section requires the Court to frame and record issues when the defendant at the first hearing of the suit makes no defence.

Allegations from which issues may be framed.

147. The Court may frame the issues from all or any of the following materials:—

(*a*) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties or persons;

(*b*) allegations made in the plaint or in the written statements (if any) tendered in the suit, or in answer to interrogatories delivered in the suit;

(*c*) the contents of documents produced by either party.

Court may examine witnesses or documents before framing issues.

148. If the Court be of opinion that the issues cannot be correctly framed without the examination of some person not before the Court, or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may (subject to the rules contained in the Indian Evidence Act) compel the attendance of any person or the production of any document by the person in whose hands it may be, by summons or other process.

Power to amend, add and strike out issues.

149. The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amendments or additional issues as may be necessary for determining the controversy between the parties shall be so made or framed.

The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

Questions of fact or law may by agreement be stated in the form of an issue.

150. When the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing

(*a*) that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject to some liability specified in the agreement,

(*b*) that upon such finding some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct, or

(*c*) that upon such finding one or more of the parties shall do or abstain from doing some particular act, specified in the agreement, and relating to the matter in dispute.

Court if satisfied that the agreement was executed in good faith may pronounce judgment.

151. If the Court be satisfied, after making such inquiry as it deems proper,

(*a*) that the agreement was duly executed by the parties,

(*b*) that they have a substantial interest in the decision of such question as aforesaid, and

(*c*) that the same is fit to be tried and decided,

it may proceed to record and try the issue, and state its finding or opinion thereon in the same manner as if the issue had been framed by the Court;

and may, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement;

and upon the judgment so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

If parties are not at issue on any question of law or fact.

152. If at the first hearing of a suit it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce judgment.

If one of several defendants be not at issue with the plaintiff.

153. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or fact, the Court may at once pronounce judgment for or against such defendant, and the suit shall proceed only against the other defendants.

If parties are at issue on questions of law or fact.

154. When the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court be satisfied that no further argument or evidence than the parties can at once supply is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues,

and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit:

Court may determine issue and pronounce judgment.

Provided that, where the summons has been issued for the settlement of issues only, the parties or their pleaders are present and none of them object.

If the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence, or for such further argument as the case requires.

If either party fails to produce his evidence, Court may pronounce judgment.

155. If the summons has been issued for the final disposal of the suit, and either party fails without sufficient cause to produce the evidence on which he relies, the Court may at once pronounce judgment, or may if it thinks fit, after framing and recording issues under section 146, adjourn the suit for the production of such evidence as may be necessary to its decision upon such issues.

Procedure where Court cannot pronounce judgment at first hearing.

CHAPTER XIII.

OF ADJOURNMENTS.

Court may grant time, or adjourn hearing.

156. The Court may, if sufficient cause be shewn, at any stage of the suit, grant time to the parties, or to any of them, and may from time to time adjourn the hearing of the suit.

In all such cases the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Costs of adjournment.

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing to be necessary for reasons to be recorded by the Judge with his own hand.

Procedure if parties fail to appear on day fixed.

157. If, on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by chapter VII, or make such other order as it thinks fit.

Court may proceed notwithstanding either party fails to produce his evidence.

158. If any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith.

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

Summons to attend to give evidence or produce documents.

159. The parties may, after the summons has been delivered for service on the defendant, whether it be for the settlement of issues only, or for the final disposal of the suit, obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such settlement or disposal, as the case may be, summonses to persons whose attendance is required either to give evidence or to produce documents.

160. The party applying for a summons shall before the summons is granted and within a period to be fixed by the Court, pay into court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned, in passing to and from the Court in which he is required to attend, and for one day's attendance.

Expenses of witnesses to be paid into court on applying for summons.

If the Court be subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) laid down by competent authority.

Scale of expenses.

161. The sum so paid into court shall be tendered to the person summoned, at the time of serving the summons if it can be served personally.

Tender of expenses to witness.

162. If it appear to the Court or to such officer as it appoints in this behalf that the sum paid into court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account; and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Procedure where insufficient sum paid in.

If it be necessary to detain the person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned, to pay into Court such sum as is sufficient to defray the expenses of his detention for such further period, and in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of the party at whose instance he was summoned; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Expenses if witness detained more than one day.

163. Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce, shall be described in the summons with reasonable accuracy.

Time, place, and purpose of attendance to be specified in summons.

164. Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce document.

165. Any person present in court may be required by the Court to give evidence or to produce any document then and there in his actual possession or power.

Power to require persons present in Court to give evidence.

166. Every summons to a person to give evidence or produce a document shall be served as nearly as may be in manner hereinbefore prescribed for the service of summons on the defendant; and the rules contained in chapter VI as to proof of service shall apply in the case of all summonses served under this section.

Summons how served.

167. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

Time for serving summons.

168. If the serving-officer certify to the Court that the summons for the attendance of a person, either to give evidence or to produce a document, cannot be served, the Court shall examine the serving-officer on oath touching the non-service:

Attachment of property of absconding witness.

and upon being satisfied that such evidence or production is material, and that the person for whose attendance the summons has been issued is absconding or keeping out of the way for the purpose of avoiding the service of the summons, may issue a proclamation requiring him to attend to give evidence, or produce the document, at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door of the house in which he ordinarily resides.

If he does not attend at the time and place named in such proclamation, the Court may in its discretion, at the instance of the party on whose application the summons was issued, make an order for the attachment of the property of the person whose attendance is required, to such amount as the Court thinks fit, not exceeding the amount of the costs of attachment and of the fine which may be imposed under section 170:

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

169. If, on the attachment of his property, such person appears and satisfies the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

If witness appears, attachment may be withdrawn.

170. If such person does not appear, or appearing, fails to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court may impose upon him such fine not exceeding five hundred rupees as the Court thinks fit, having regard to his condition in life and all the circumstances of the case, and may order the property attached, or any part thereof, to be sold for the

Procedure if witness fails to appear.

purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of the said fine, if any:

Provided that if the person whose attendance is required pays into court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

171. Subject to the rules of this Code as to attendance and appearance and to the provisions of the Indian Evidence Act, if the Court at any time thinks it necessary to examine any person other than a party to the suit, and not named as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

Court may of its own accord summon as witnesses strangers to suit.

172. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit must attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document must either attend to produce it, or cause it to be produced, at such time and place.

Persons summoned to give evidence must attend.

173. No person so summoned and attending shall depart unless and until (*a*) he has been examined or has produced the document and the Court has risen, or (*b*) he has obtained the Court's leave to depart.

When they may depart.

174. If any person on whom a summons to give evidence or produce a document has been served fails to comply with the summons, or if any person so summoned and attending departs in contravention of section 173, the Court may order him to be arrested and brought before the Court:

Consequences of non-attendance.

Provided that no such order shall be made when the Court has reason to believe that the person so failing had a lawful excuse for such failure.

When any person so brought before the Court fails to satisfy it that he had a lawful excuse for not complying with the summons, the Court may sentence him to fine not exceeding five hundred rupees.

Explanation.—Non-payment or non-tender of a sum sufficient to defray the expenses mentioned in section 160 shall be deemed a lawful excuse within the meaning of this section.

If any person so apprehended and brought before the Court cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and on such bail or security being given, may release him.

Consequences of refusal to give evidence or produce documents.

175. If any person so failing to comply with a summons absconds or keeps out of the way, so that he cannot be apprehended and brought before the Court, the provisions of sections 168, 169 and 170 shall, *mutatis mutandis*, apply.

Procedure when witness absconds.

176. No one shall be bound to attend in person to give evidence or to be examined in Court unless he resides—

Person summoned to attend in person if so required.

(*a*) within the local limits of its ordinary original jurisdiction, or

(*b*) without such limits and at a place less than fifty or (where there is railway communication for five-sixths of the distance between the place where he resides and the place where the Court is situate) two hundred miles distant from the Court-house.

177. If any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence, or to produce any document then and there in his actual possession or power, the Court may in its discretion either pass a decree against him, or make such other order in relation to the suit as the Court thinks fit.

Consequence of refusal of party to give evidence when called on by the Court.

178. Whenever any party to a suit is required to give evidence or to produce a document, the rules as to witnesses contained in this Code shall apply to him so far as they are applicable.

Rules as to witnesses to apply to parties summoned.

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. On the day fixed for the hearing of the suit, or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

Statement and production of evidence by party having right to begin.

Explanation.—The plaintiff has the right to begin unless where the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

Rules as to right to begin.

180. The other party shall then state his case and produce his evidence (if any). The party beginning is then entitled to reply.

Statement and production of evidence by other party.

Reply by party beginning.

Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other

party. In the latter case the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

181. The evidence of the witnesses in attendance shall be taken orally in open Court in the presence and under the personal direction and superintendence, of the Judge.

Witnesses to be examined in open Court.

182. In cases in which an appeal is allowed, the evidence of each witness shall be taken down in writing, in the language of the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties or their pleaders, and the Judge shall, if necessary, correct the same and shall sign it.

How evidence shall be taken in appealable cases.

183. If the evidence is taken down under section 182 in a language different from that in which it was given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given.

When witness may require his deposition be interpreted.

184. In cases in which the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

Memorandum when evidence is not taken down by Judge.

185. Where English is not the language of the Court, but all the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object to have such evidence as is given in English taken down in English, the Judge may so take it down with his own hand.

When evidence may be taken in English.

186. The Court may of its own motion or on the application of any party or his pleader take down, or cause to be taken down, any particular question and answer, or any objection to any question, if there appear any special reason for so doing.

Any particular question and answer may be taken down.

187. If any question put to a witness be objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection and the name of the person making it, together with the decision of the Court thereon.

Questions objected to.

188. The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

Remarks on demeanour of witnesses.

189. In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

Memorandum of evidence in unappealable cases.

190. If the Judge be rendered unable to make a memorandum as above required by this chapter, he shall cause the reason of such inability to be recorded, and shall cause the memorandum to be made in writing from his dictation in open Court.

Every memorandum so made shall form part of the record.

Judge unable to make such memorandum to record reason of his inability.

191. Where the Judge taking down any evidence, or causing any memorandum to be made under this chapter, dies or is removed from the Court before the conclusion of the suit, his successor may, if he thinks fit, deal with such evidence or memorandum as if he himself had taken it down or caused it to be made.

Power to deal with evidence taken down by Judge removed before conclusion of suit.

192. If a witness be about to leave the jurisdiction of the Court, or if other sufficient cause be shewn to the satisfaction of the Court why his evidence should be taken immediately, the Court may, upon the application of either party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient of the day fixed for the examination shall be given to the parties.

The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and may then be read at any hearing of the suit.

Power to examine witness immediately.

193. The Court may at any stage of the suit recall any witness who has been examined and who has not departed in accordance with section 173, and may (subject to the provisions of the Indian Evidence Act) put such questions to him as the Court thinks fit.

Court may recall and examine witness.

CHAPTER XVI.

OF AFFIDAVITS.

194. Any Court of first instance and any Appellate Court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Power to order any point to be proved by affidavit.

Provided that where it appears to the Court that either party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not

be made authorizing the evidence of such witness to be given by affidavit.

195. Upon any application evidence may be given by affidavit, but the Court may at the instance of either party order the attendance for cross-examination of the declarant.

When evidence may be given by affidavit.

Such attendance shall be in Court unless the declarant is exempted under this Code from personal appearance in Court, or the Court otherwise directs.

196. Affidavits shall be confined to such facts as the declarant is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that reasonable grounds thereof be set forth.

Matters to which affidavits shall be confined.

The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of or extracts from documents, shall (unless the Court otherwise directs) be paid by the party producing the same.

197. In the case of any affidavit under this Code—

Oath of declarant by whom to be administered.

(*a*) any Court or Magistrate, or

(*b*) any officer whom a High Court may appoint in this behalf, or

(*c*) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf,

may administer the oath of the declarant.

CHAPTER XVII.

OF JUDGMENT AND DECREE.

198. The Court, after the evidence has been duly taken and the parties have been heard either in person or by their respective pleaders or recognized agents, shall pronounce judgment in open Court, either at once or on some future day, of which due notice shall be given to the parties or their pleaders.

Judgment when pronounced.

199. A Judge may pronounce a judgment written by his predecessor, but not pronounced, and in such case he shall not be bound by section 198, except as to giving notice.

Power to prononnce judgment written by Judge's predecessor.

200. The judgment shall be written in the language of the Court, or in English, or in the Judge's mother-tongue.

Language of judgment.

201. Whenever the judgment is written in any language other than that of the Court, the judgment shall, if any of the parties so require, be translated into the language of the Court, and the translation shall also be signed by the Judge or such officer as he appoints in this behalf.

Translation of judgment.

202. The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it, and shall not be altered or added to, save to correct verbal errors or to supply some accidental defect not affecting a material part of the case, or on review.

Judgment to be dated and signed.

203. The judgments of the Courts of Small Causes need not contain more than the points for determination and the decision thereupon.

Judgments of Small Cause Courts.

The judgments of all other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

Judgments of other Courts.

204. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons thereof, upon each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Court to state its decision on each issue.

Exception

205. The decree shall bear date the day on which the judgment was pronounced; and when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree.

Date of decree.

206. The decree must agree with the judgment: it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the register, and shall specify clearly the relief granted or other determination of the suit.

Contents of decree.

The decree shall also state the amount of costs incurred in the suit, and by what parties and in what proportions such costs are to be paid.

If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error be found in the decree, the Court shall, of its own motion or on that of any of the parties, amend the decree so as to bring it into conformity with the judgment or to correct such error: provided that reasonable notice have been given to the parties or their pleaders of the proposed amendment.

Power to amend decree.

207. When the subject-matter of the suit is immoveable property, and such property is identified by boundaries or numbers in a record of settlement or survey, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries or number of such portion.

Decree for recovery of portion of immoveable property.

208. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for delivery of moveable property.

209. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

Payment by instalments.

210. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments, with or without interest.

When Court may order payment by instalments.

And after the passing of any such decree the Court may, on the application of the judgment-debtor, and with the consent of the decree-holder, order that the amount decreed be paid by instalments on such terms as to the payment of interest, the attachment of the property of the defendant, or the taking of security from him, or otherwise, as it thinks fit:

Save as provided in this section and section 206, no decree shall be altered at the request of parties.

In suits for land, Court may decree payment of mesne profits with interest.

211. When the suit is for land or other property yielding rent or other profit, the Court may provide in the decree for the payment of rent or mesne profits in respect of such property from the institution of the suit until the delivery of possession to the party in whose favour the decree is made, or until the expiration of three years from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

Explanation.—'Mesne profits' of property mean those profits which the person in wrongful possession of such property actually received, or might with ordinary diligence have received, therefrom.

Court may determine amount of mesne profits prior to passing decree, or may reserve inquiry.

212. When the suit is for immoveable property and for mesne profits which have accrued on the property during a period prior to the institution of the suit, and the amount of such profits is disputed, the Court may either determine the amount by the decree itself, or may pass a decree for the property and direct an inquiry into the amount of mesne profits, and dispose of the same on further orders.

Administration-suit.

213. When the suit is for an account of any property and for its due administration under the decree of the Court, the Court, before making the decree, shall order such accounts and inquiries to be taken and made, and give such other directions as it thinks fit.

In the administration by the Court of the property of any person who dies after this Code comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being with respect to the estates of persons adjudged insolvent;

And all persons who in any such case would be entitled to be paid out of such property may come in under the decree for its administration, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

Applications under section 265 of the Indian Contract Act, 1872, shall be deemed to be suits within the meaning of this section.

Suit to enforce right of pre-emption.

214. When the suit is to enforce a right of pre-emption in respect of a particular sale of property, and the Court finds for the plaintiff, if the amount of purchase-money has not been paid into Court, the decree shall specify a day on or before which it shall be so paid, and shall declare that on payment of such purchase-money, together with the costs (if any) decreed against him, the plaintiff shall obtain possession of the property, but that if such money and costs are not so paid, the suit shall stand dismissed with costs.

Suit for dissolution of partnership.

215. When the suit is for the dissolution of a partnership, the Court, before making its decree, may pass an order fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

If set-off be allowed.

216. If the defendant has set-off the amount of a debt against the claim of the plaintiff, and such set-off has been allowed, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

Effect of decree.

The decree of the Court with respect to any sum awarded to the defendant shall have the same effect, and be subject to the same rules in respect of appeal or otherwise, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

Certified copies of decree and judgment to be furnished.

217. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

CHAPTER XVIII.

OF COSTS.

Costs of applications.

218. When disposing of any application under this Code, the Court may give to either party the costs of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

Judgment to direct by whom costs are to be paid.

219. The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or in proportion.

Power of Court as to costs.

220. The Court shall have full power to give and apportion costs of every application and suit in any manner it thinks fit, and the fact that the Court has no jurisdiction to try the case is no bar to the exercise of such power:

Provided if the Court directs that the costs of any application or suit shall not follow the event, the Court shall state its reasons in writing.

Costs may be set-off against sum admitted or found to be due.

221. The Court may direct that the costs payable to one party by another shall be set-off against a sum which is admitted or is found in the suit to be due from the former to the latter,

Saving of pleader's lien.

but such direction shall not affect the lien upon the amount decreed of any pleader in respect of the costs payable to him under the decree.

Interest on costs. Payment of costs out of subject-matter.

222. The Court may give interest on costs at any rate not exceeding six per cent. per annum and may direct that costs, with or without interest, be paid out of or charged upon the subject-matter of the suit.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.

Court by which decree may be executed.

223. A decree may be executed either by the Court which passed it or by the Court to which it is sent for execution under the provisions hereinafter contained.

The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court,

(*a*) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or

(*b*) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree and has property within the local limits of the jurisdiction of such other Court, or

(*c*) if the decree direct the sale of immoveable property situate outside the district within which the Court which passed it is situate, or

(*d*) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

The Court which passed a decree may of its own motion send it for execution to any Court subordinate thereto.

The Court to which a decree is sent under this section for execution shall certify to the Court which passed it, the fact of such execution, or where the former Court fails to execute the same, the circumstances attending such failure.

Where the decree has been passed in a case cognizable by a Court of Small Causes and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the Local Court of Small Causes the copies and certificate respectively mentioned in clauses (*a*), (*b*) and (*c*) of section 224; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

If the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But if the Court to which the decree is to be sent for execution is situate in a different district, the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

Procedure when Court desires that its own decree shall be executed by another Court.

224. The Court sending a decree for execution under section 223 shall send therewith

(*a*) a copy of the decree;

(*b*) a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted; and

(*c*) a copy of any order for the execution of the decree, and if no such order has been made, a certificate to that effect.

Court receiving copies of decree, &c., to file same without proof.

225. The Court to which a decree is so sent shall cause such copies and certificate to be filed, without any further proof of the decree or order for execution, or of the copies thereof, or of the jurisdiction of the Court which passed it, unless the former Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

Execution of decree or order by Court to which it is sent.

226. When such copies are so filed, the decree or order may, if the Court to which it is sent be the District Court, be executed by such Court or by any subordinate Court which it directs to execute the same.

Execution by High Court, of decree transmitted by other Court.

227. If the Court to which the decree is sent for execution be a High Court, the decree shall be executed by such Court in the same manner as if it had been made by such Court in the exercise of its ordinary original civil jurisdiction.

Appeal from orders for execution of decrees of other Courts.

228. The Court executing a decree sent to it under this chapter shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its orders in executing such decree shall be subject to the same rules in respect of appeal, as if the decree had been passed by itself.

Decrees of Courts established by Government of India in Native States.

229. A decree of any Court established by the authority of the Governor General in Council in the territories of any Native Prince or State in India, which cannot be executed within the jurisdiction of the Court by which it was made, may be executed in manner herein provided within the jurisdiction of any Court in British India.

B.—Of Application for Execution.

230. When the holder of a decree desires to enforce it, he shall apply to the Court which passed the decree or to the officer, if any, appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court, then to such Court or to the proper officer thereof.

Application for execution.

The Court may in its discretion refuse execution at the same time against the person and property of the judgment-debtor.

Where an application to execute a decree for the payment of money or delivery of other property has been made under this section and granted, no subsequent application to execute the same decree shall be granted unless the Court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting any such subsequent application shall be conclusive evidence that due diligence was used to procure such satisfaction.

And no such subsequent application shall be granted after the expiration of twelve years from any of the following dates (namely)—

(*a*) the date of the decree sought to be enforced, or of the decree (if any) on appeal affirming the same, or

(*b*) where the decree or any subsequent order directs the payment of money or the delivery of property by instalments,—the date of the default in paying or delivering the instalment in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent the Court from granting an application for execution of a decree after the expiration of the said term of twelve years, where the judgment-debtor has by fraud or force prevented the execution of the decree at some time within twelve years immediately before the date of the application.

Notwithstanding anything herein contained, proceedings may be taken to enforce any decree within three years after the passing of this Code, unless when the period prescribed for taking such proceedings by the law in force immediately before the passing of this Code shall have expired before the completion of the said three years.

231. If a decree has been passed jointly in favour of more persons than one, any one or more of such persons, or his or their representatives, may apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the representative in interest of the deceased.

Application by joint decree-holder.

If the Court sees sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

232. If a decree be transferred by assignment in writing or by operation of law from the decree-holder to any other person, the transferee may apply for its execution to the Court which passed it; and if that Court thinks fit, the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Application by transferee of decree.

Provided that where the decree has been transferred by assignment, notice in writing of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to such execution:

Provided also that where a decree against several persons has been transferred to one of them, it shall not be executed against the others.

233. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Transferee to hold subject to equities enforceable against original holder.

234. If a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.

If judgment-debtor die before execution, application may be made against his representative.

Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Court executing the decree may of its own motion, or on the application of the decree-holder, compel the said representative to produce such accounts as it thinks fit.

235. The application for the execution of a decree shall be in writing, verified in manner hereinbefore provided for the verification of plaints, and shall contain in a tabular form the following particulars (namely)—

Contents of application for execution of decree.

(*a*) the number of the suit;

(*b*) the names of the parties;

(*c*) the date of the decree;

(*d*) whether any appeal has been preferred from the decree;

(*e*) whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree;

(*f*) whether any and what previous applications have been made for execution of the decree and with what result;

(*g*) the amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby;

(*h*) the amount of costs, if any, awarded;

(*i*) the name of the person against whom the enforcement of the decree is sought; and

(*j*) the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

236. If the application be for the attachment of any moveable property belonging to the judgment-debtor but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

Application for attachment of moveable property to be accompanied with inventory.

237. If the application be for the attachment of any immoveable property belonging to the judgment-debtor, it shall contain at the foot a description of the property sufficient to identify it, and also a specification of the judgment-debtor's share or interest therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

Further particulars when application is for attachment of immoveable property

Every such description and specification shall be verified in manner hereinbefore provided for the verification of plaints.

238. If the property be land registered in the Collector's office, the application for attachment shall be accompanied by an authenticated extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for such land, and the shares of the registered proprietors.

When application must be accompanied by extract from Collector's register.

C.—Of staying Execution.

239. The Court to which a decree has been sent for execution under this chapter, shall upon sufficient cause being shewn, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was made, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or appellate Court if execution had been issued thereby, or if application for execution had been made thereto;

When Court may stay execution.

and in case the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution or discharge of such property or person pending the result of the application for such order.

240. Before passing an order under section 239, to stay execution, or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

Power to require security from, or impose conditions upon, judgment-debtor.

241. No discharge under section 239 of the property or person of a judgment-debtor, shall prevent it or him from being retaken in execution of the decree sent for execution.

Liability of judgment-debtor discharged to be retaken.

242. Any order of the Court by which the decree was passed or of such Court of appeal as aforesaid, in relation to the execution of such decree shall be binding upon the Court to which the decree was sent for execution.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

243. If a suit be pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may (if it think fit) stay execution on the decree, either absolutely or on such terms as it thinks fit, until the pending suit has been decided.

Stay of execution pending suit between decree-holder and judgment-debtor.

D.—Questions for Court executing decree.

244. The following questions shall be determined by order of the Court executing a decree and not by separate suit (namely)—

Question to be decided by Court executing decree.

(*a*) questions regarding the amount of any mesne profits as to which the decree has directed inquiry;

(*b*) questions regarding the amount of any mesne profits or interest which the decree has made payable in respect of the subject-matter of a suit between the date of its institution and the execution of the decree, or the expiration of three years from the date of the decree;

(*c*) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution of the decree.

Nothing in this section shall be deemed to bar a separate suit for mesne profits accruing between the institution of the first suit and the execution of the decree therein, where such profits are not dealt with by such decree.

E.—Of the mode of executing Decrees.

245. The Court, on receiving an application for the execution of a decree, shall ascertain whether it contains the particulars mentioned in section 235, or such of them as may be applicable to the case, and whether it is accompanied by the inventory mentioned in section 236; and if such particulars or inventory are or is wanting, it shall reject the application or return it for amendment or for the addition of the inventory, as the case may be, or amend it then and there. Every amendment made under this section shall be attested by the signature of the Judge.

Procedure on receiving application for execution of decree.

When the application is admitted, the Court shall enter in the register of the suit a note of the application and the date on which it was made, and shall order execution of the decree according to the nature of the application:

Procedure on admitting application.

Provided that, in the case of a decree for money, the value of the property attached shall as nearly as may be correspond with the amount for which the decree has been made.

246. If cross-decrees between the same parties for the payment of money be produced to the Court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

Cross-decrees.

If the two sums be equal, satisfaction shall be entered upon both decrees.

Explanation I.—The decrees contemplated by this section are (*a*) decrees made by the same Court, (*b*) decrees sent to the same Court for execution, and (*c*) decrees of which one is made by the Court and the other is sent to the same Court for execution; but not (*d*) decrees of which one is made by one Court and the other is made by another Court and not sent for execution to the former Court.

Explanation II.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as by the assignee himself.

Explanation III.—This section does not apply unless

(*e*) both decrees are capable of execution at the same time;

(*f*) the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits; and

(*g*) the sums due under the decrees are definite.

Illustrations.

(*a*) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(*b*) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this section.

(*c*) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this section.

247. When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party; but satisfaction for the smaller sum shall be entered on the decree.

Cross-claims under same decree.

When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

248. The Court shall issue a notice to the party against whom execution is applied for, requiring him to shew cause, within a period to be fixed by the Court, why the decree should not be executed against him,

Notice to shew cause why decree should not be executed.

(*a*) if more than one year has elapsed between the date of the decree and the application for its execution, or

(*b*) if the enforcement of the decree be applied for against the legal representative of a party to the suit in which the decree was made:

Proviso.

Provided that no such notice shall be necessary

in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed or of the last order against the party against whom execution is applied for passed on any previous application for execution, or

in consequence of the application being against the legal representative of the judgment-debtor, if upon a previous application for execution against the same person, the Court has ordered execution to issue against him.

Explanation.—In this section the phrase "the Court" means the Court by which the decree was passed, unless the decree has been sent to another Court for execution, in which case it means such other Court.

249. If the person to whom notice is issued under the last preceding section does not appear, or does not shew cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

Procedure after issue of notice.

If he offers any objection to the enforcement of the decree, the Court shall consider such objection and pass such order as it thinks fit.

250. When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court, unless it sees cause to the contrary, shall issue its warrant for the execution of the decree.

Warrant when to issue.

251. Such warrant shall be dated the day on which it is issued, signed by the Judge or such officer as the Court appoints in this behalf, sealed with the seal of the Court, and delivered to the proper officer to be executed.

Date, signature, seal and delivery.

And a day shall be specified in such warrant on or before which it must be executed, and the proper officer shall endorse thereon the day and manner in which it was executed, or if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

252. If the decree be against a party as the legal representative of a deceased person, and the decree be for money to be paid out of the property of the deceased, it may be executed by the attachment and sale of any such property.

Decree against representative of deceased for money to be paid out of deceased's property.

If no such property can be found, and the judgment-debtor fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by

him, in the same manner as if the decree had been against him personally.

253. Whenever a person has, before the passing of a decree in an original suit, become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant:

Decree against surety.

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

254. Every decree or order directing a party to pay money, as compensation, or costs, or as the alternative to some other relief granted by the decree or order, or otherwise, may be enforced by the imprisonment of the judgment-debtor, or by the attachment and sale of his property in manner hereinafter provided, or by both.

Decree for money.

255. If the decree be for mesne profits or any other matter the amount of which in money is to be subsequently determined, the property of the judgment-debtor may, before the amount due from him under the decree has been ascertained, be attached as in the case of an ordinary decree for money.

Decree for mesne profits or other matter, amount of which to be subsequently ascertained.

256. When a decree is passed for a sum of money only, and the amount decreed does not exceed the sum of one thousand rupees, the Court may, when passing the decree, on the oral application of the decree-holder, order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court, or against his moveable property within the same limits.

Power to direct immediate execution of decree for money not exceeding Rs. 1,000.

257. All money payable under a decree shall be paid as follows (namely)—

Modes of paying money under decree.

(*a*) into the Court whose duty it is to execute the decree; or

(*b*) out of Court to the decree-holder; or

(*c*) otherwise as the Court which made the decree directs.

258. If the money is paid out of Court or the decree is otherwise adjusted to the satisfaction of the decree-holder, he shall certify the payment or adjustment to the Court whose duty it is to execute the decree; and no satisfaction of a decree in part or in whole by such payment or adjustment shall be recognized by such Court unless the payment or adjustment be certified as aforesaid. Where the decree-holder fails to certify as aforesaid, the judgment-debtor may apply to such Court for an order directing the decree-holder to certify as aforesaid, and the Court, after hearing the decree-holder, may make such order, and if the decree-holder disobeys the same, may refuse further to excute the decree.

Payment of money out of Court to decree-holder.

259. If the decree be for any specific moveable, or for any share in a specific moveable, or for the recovery of a wife, it may be enforced by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the imprisonment of the judgment-debtor, or by attaching his property and keeping the same under attachment until the further order of the Court, or by both imprisonment and attachment, if necessary.

Decrees for specific moveables, or recovery of wives.

No attachment under this section shall remain in force for more than six months, at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and pay the balance, if any, to the judgment-debtor on his application.

260. When the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights, or for the performance of any other particular act, has been made, has had an opportunity of obeying the decree or injunction and has wilfully failed to obey it, the decree may be enforced by his imprisonment, or by the attachment of his property, or by both.

Decree for specific performance or restitution of conjugal rights.

No attachment under this section shall remain in force for more than one year, at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit and may pay the balance, if any, to the judgment-debtor on his application.

261. If the decree be for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to comply with the decree, the decree-holder may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and deliver the same to the Court.

Decree for execution of conveyances, or endorsement of negotiable instruments.

The Court shall thereupon cause the draft to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing stating that his objections, if any, thereto shall be made within such time (mentioning it) as the Court fixes in this behalf.

The decree-holder may also tender a duplicate of the draft to the Court for execution upon the proper stamp-paper, if a stamp is required by law.

On proof of such service, the Court, or such officer as it appoints in this behalf, shall execute the duplicate so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree, and execute the duplicate so altered:

Provided that if any party object to the draft so served as aforesaid, his objections shall, within

the time so fixed, be stated in writing and argued before the Court, and the Court shall thereupon pass such order as it thinks fit, and execute, or alter and execute, the duplicate in accordance therewith.

262. The execution of a conveyance or the endorsement of a negotiable instrument by the Court under the last preceding section may be in the following form: "*C. D.*, Judge of the Court of (*or as the case may be*), for *A. B.*, in a suit by *E. F.*, against *A. B.*," or in such other form as the High Court may from time to time prescribe, and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same.

Form and effect of execution of conveyance by Court.

263. If the decree be for the delivery of any immoveable property, possession thereof shall be delivered over to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, and, if need be, by removing any person bound by the decree who refuses to vacate the property.

Decree for immoveable property.

264. If the decree be for the delivery of any immoveable property in the occupancy of a tenant or other person entitled to occupy the same, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum, or in such other mode as is customary, at some convenient place, the substance of the decree in regard to the property:

Delivery of immoveable property when in occupancy of tenant.

Provided that if the occupant can be found, a notice in writing containing such substance shall be served upon him, and in such case no proclamation need be made.

265. If the decree be for the partition or for the separate possession of a share of an undivided estate paying revenue to Government, the partition of the estate or the separation of the share shall be made by the Collector.

Partition of estate or separation of share.

F.—Of Attachment of Property.

266. The following property is liable to attachment and sale in execution of a decree, (namely) lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundís, promissory notes, Government securities, bonds or other securities for money, debts, shares in the capital or joint-stock of any railway, banking or other public Company or Corporation, and, except as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, and whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf:

Property liable to attachment and sale in execution of decree.

Provided that the following particulars shall not be liable to such attachment or sale (namely)—

(*a*) the necessary wearing apparel of the judgment-debtor, his wife and children:

(*b*) tools of artizans, implements of husbandry and such cattle as may in the opinion of the Court be necessary to enable the judgment-debtor to earn his livelihood as an agriculturist:

(*c*) the materials of houses and other buildings belonging to and occupied by agriculturists:

(*d*) books of account:

(*e*) mere rights to sue for damages:

(*f*) any right of personal service:

(*g*) stipends allowed to military and civil pensioners of Government, and political pensions:

(*h*) one moiety of the salary of a public officer or of the servant of a Railway Company:

(*i*) the pay and allowances of persons to whom the Native Articles of War apply:

(*j*) the wages of labourers and domestic servants:

(*k*) an expectancy of succession by survivorship or other merely contingent or possible right or interest:

(*l*) a right to future maintenance.

Explanation.—The particulars mentioned in clauses (*g*), (*h*), (*i*) and (*j*) are exempt from attachment or sale whether before or after they are actually payable:

Provided also that nothing in this section shall be deemed:

(*a*) to exempt the materials of houses and other buildings from attachment or sale in execution of decrees for rent, or

(*b*) to affect the statute for the time being in force for punishing mutiny and desertion and for the better payment of the Army and their quarters.

267. The Court may of its own motion or on the application of the decree-holder, summon any person whom it thinks necessary, and examine him in respect to any property liable to be seized in satisfaction of the decree, and may require the person summoned to produce any document in his possession or power relating to such property, and before issuing the summons of its own motion, shall declare the person on whose behalf the summons is so issued.

Power to summon and examine persons as to property liable to be seized.

268. In the case of (*a*) a debt not secured by a negotiable instrument, (*b*) a share in the capital of any public company or corporation, (*c*) other moveable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any Court, the attachment shall be made by a written order prohibiting,

Attachment of debt, share and other property not in possession of judgment-debtor.

(*a*) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court:

(*b*) in the case of the share, the person in whose name the share may be standing, from transferring the same or receiving any dividend thereon:

(*c*) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

A copy of such order shall be fixed up in some conspicuous part of the Court-house, and another copy of the same shall be sent in the case of the debt to the debtor, in the case of the share to the proper officer of the company or corporation, and in the case of the other moveable property (except as aforesaid) to the person in possession of the same.

A debtor prohibited under clause (*a*) of this section may pay the amount of his debt into court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

No attachment under this section shall remain in force for more than six months; at the end of which time, if the judgment-debtor has not obeyed the decree, the property attached may be sold, and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and pay the balance, if any, to the judgment-debtor on his application.

269. If the property be moveable property in the possession of the judgment-debtor, other than the property mentioned in the first proviso to section 266, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof:

Attachment of moveable property in possession of defendant.

Provided that when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody will exceed its value, the proper officer may sell it at once.

The Local Government may from time to time make rules for the maintenance and custody, while under attachment, of live-stock and other moveable property, and the officer attaching property under this section shall, notwithstanding the provisions of the former part of this section act in accordance with such rules.

Power to make rules for maintenance of attached live-stock.

270. If the property be a negotiable instrument not in deposit in a Court, the attachment shall be made by actual seizure, and the instrument shall be brought into court and held subject to the further orders of the Court.

Attachment of negotiable instruments.

271. If the person executing any process under this Code directing or authorizing seizure of moveable property, has gained access to a house or other building, he may unfasten and open the door of any room in which he has reason to believe any such property to be:

Seizure of property in house.

Provided that if the room be in the actual occupancy of a woman, who according to the customs of the country does not appear in public, the person executing the process shall give notice to her that she is at liberty to withdraw; and after allowing a reasonable time for such woman to withdraw, and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

Seizure of property in zanánás.

272. If the property be deposited in, or be in the custody of, any Court or public officer, the attachment shall be made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon may be held subject to the further orders of the Court from which the notice issues:

Attachment of property deposited in Court or with Government officer.

Provided that, if such property is deposited in, or is in the custody of, a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

Proviso.

273. If the property be a decree for money passed by the Court which passed the decree sought to be executed, the attachment shall be made by an order of the Court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

Attachment of decree for money.

If the property be a decree for money passed by any other Court, the attachment shall be made by a notice in writing to such Court under the hand of the Judge of the Court which passed the decree sought to be executed, requesting the former Court to stay the execution of its decree until such notice is cancelled by the Court from which it was sent. The Court receiving such notice shall stay execution accordingly, unless and until

(*a*) the Court which passed the decree sought to be executed cancels the notice, or

(*b*) the holder of the decree sought to be executed applies to the Court receiving such notice to execute its own decree.

On receiving such application, the Court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

In the case of all other decrees the attachment shall be made by a notice in writing, under the hand of the Judge of the Court which passed the decree sought to be executed to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way; and, when such decree has been passed by any other Court, also by sending to such Court a like notice in writing to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent. Every Court receiving such notice shall give effect to the same until it is so cancelled.

Attachment of other decrees.

The holder of any decree attached under this section shall be bound to give the Court executing the same such information and aid as may reasonably be required.

Decree-holders to give information.

274. If the property be immoveable, the attachment shall be made by an order prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from receiving the same from him by purchase, gift or otherwise.

Attachment of immoveable property.

The order shall be proclaimed at some place on adjacent to such property by beat of drum or

other customary mode, and a copy of the order shall be fixed up in a conspicuous part of the property and of the Court-house.

When the property is land paying revenue to Government, a copy of the order shall also be fixed up in the office of the Collector of the District in which the land is situate.

Order for withdrawal of attachment after satisfaction of decree.

275. If the amount decreed with costs and all charges and expenses resulting from the attachment of any property be paid into Court, or if satisfaction of the decree be otherwise made through the Court, or if the decree is set aside or reversed, an order shall be issued, on the application of any person interested in the property, for the withdrawal of the attachment.

Private alienation of property after attachment to be void.

276. When an attachment has been made by actual seizure or by written order duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, mortgage or otherwise, and any payment of the debt or dividend or a delivery of the share to the judgment-debtor during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Court may direct coin or currency-notes attached to be paid to party entitled.

277. If the property attached is coin or currency-notes, the Court may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.

Investigation of claims to and objections to attachment of attached property.

278. If any claim be preferred to, or any objection be made to the attachment of, any property attached in execution of a decree, on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was a party to the suit:

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

Postponement of sale.

If the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

Evidence to be adduced by claimant.

279. The claimant or objector must adduce evidence to show that at the date of the attachment he had some interest in, or was possessed of, the property attached.

Release of property from attachment.

280. If upon the said investigation the Court is satisfied that, for the reason stated in the claim or objection, such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall pass an order for releasing the property wholly or to such extent as it thinks fit, from attachment.

Disallowance of claim to release of property attached.

281. If the Court is satisfied that the property was, at the time it was attached, in possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

Continuance of attachment subject to claim of incumbrancer.

282. If the Court is satisfied that the property is subject to a mortgage or lien in favour of some person not in possession, and thinks fit to continue the attachment, it may do so, subject to such mortgage or lien.

Saving of suits to establish right to attached property.

283. The party against whom an order under section 280, 281 or 282 is passed may institute a suit to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order shall be conclusive.

Power to order property attached to be sold, and proceeds be paid to person entitled.

284. Any Court may order that any property which has been attached, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

Property attached in execution of decrees of several Courts.

285. Where property not in the custody of any Court has been attached in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

G.—Of Sale and Delivery of Property.

(a) General Rules.

Sales by whom conducted and how made.

286. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and, except as provided in section 296, shall be made by public auction in manner hereinafter mentioned.

Proclamation of sales by public auction.

287. When any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court. Such proclamation shall state the time and place of sale; and shall specify as fairly and accurately as possible—

(*a*) the property to be sold;

(*b*) the revenue assessed upon the estate or part of the estate, when the property to be sold is an interest in an estate or a part of an estate paying revenue to Government;

(*c*) any incumbrance to which the property is liable;

(*d*) the amount for the recovery of which the sale is ordered; and

(*e*) every other thing which the Court considers material for the purchaser to know in order to judge of the nature and value of the property.

For the purpose of ascertaining the matters so to be specified, the Court may summon any person whom it thinks necessary, and examine him in respect to any such matters, and require him to produce any document in his possession or power relating thereto.

Rules to be made by High Court.

The High Court shall, as soon as may be after this Code comes into force, make rules for the guidance of the Courts in exercise of their duties under this section. The High Court may from time to time alter any rules so made. All such rules shall be published in the local official Gazette and shall thereupon have the force of law. As regards his own Court and the Court of Small Causes at Rangoon the Recorder of Rangoon shall be deemed to be a 'High Court' within the meaning of this paragraph.

Nothing in this section shall apply to cases in which the execution of the decree has been transferred to the Collector.

Indemnity of Judges, &c.

288. No Judge or other public officer shall be answerable for any error, misstatement or omission in any proclamation under section 287 unless the same has been committed or made dishonestly.

Mode of making proclamation.

289. The proclamation shall be made, in manner prescribed by section 274, on the spot where the property is attached.

If the Court so direct, such proclamation shall also be published in the local official Gazette and in some local newspaper, and the costs of such publication shall be deemed to be costs of the sale.

Time of sale.

290. Except in the case of property mentioned in the proviso to section 269, no sale under this chapter shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification has been affixed in the court-house of the Judge ordering the sale.

Power to adjourn sale.

291. The officer conducting any sale under this chapter may in his discretion adjourn the sale, recording his reasons for such adjournment: Provided that when the sale is made in or within the precincts of the Court-house no such adjournment shall be made without the leave of the Court. Every such sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to such officer, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court that ordered the sale.

Officers concerned in execution-sales not to bid for or buy property sold.

292. No officer having any duty to perform in connection with any sale under this chapter shall either directly or indirectly bid for, acquire, or attempt to acquire, any interest in any property sold at such sale.

Defaulting purchaser answerable for loss by re-sale.

293. The deficiency of price (if any) which may happen on a re-sale under this Code by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court by the officer holding the sale,

and shall, at the instance of either the judgment-creditor or the judgment-debtor, be recoverable from the defaulter under the rules contained in this chapter for the execution of a decree for money.

Decree-holder not to bid for or buy property without permission.

294. No holder of a decree in execution of which property is sold, shall, without the express permission of the Court, bid for or purchase the property.

If decree-holder purchase, amount of decree may be taken as payment.

When a decree-holder purchases with such permission, the purchase-money and the amount due on the decree may, if he so desires, be set-off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.

Proceeds of execution-sale to be divided rateably among decree-holders.

295. Whenever assets are realized by sale or otherwise in execution of a decree, and more persons than one have, prior to the realization, applied to the Court by which such assets are held for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be divided rateably among all such persons:

Proviso where property is sold subject to mortgage.

Provided that, when any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not be entitled to share in any surplus arising from such sale:

Provided also that when any property liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the assent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge giving to the mortgagee or incumbrancer the same right against the proceeds of the sale as he had against the property sold.

If all or any of such assets be paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

Nothing in this section affects any right of the Government.

(b).—Rules as to Moveable Property.

Rules as to negotiable securities and shares in public Companies.

296. If the property to be sold be a negotiable instrument or a share in any public Company or Corporation, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or share through a broker at the market-rate of the day.

Payment for moveable property sold.

297. In the case of other moveable property, the price of each lot shall be paid for at the time of sale, or as soon after as the officer holding the sale directs, and in default of payment, the property shall forthwith be again put up and sold.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Irregularity not to vitiate sale of moveable property, but any person injured may sue.

298. No irregularity in publishing or conducting the sale of moveable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation, or (if such other person be the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Delivery of moveable property belonging to defendant actually seized.

299. When the property sold is a negotiable instrument or other moveable property of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which judgment-debtor is entitled subject to lien.

300. When the property sold is any moveable property to which the judgment-debtor is entitled subject to the possession of some other person, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

Delivery of debts and of shares in public Companies.

301. When the property sold is a debt not secured by a negotiable instrument, or is a share in any public Company, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the Manager, Secretary or other proper officer of the Company from permitting any such transfer or making any such payment to any person except the purchaser.

Transfer of negotiable instruments and shares.

302. If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any public Company is standing, is required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share, or may execute such other document as may be necessary.

The endorsement or execution shall be in the following form or to the like effect:—"*A. B.* by *C. D.*, Judge of the Court of (*or as the case may be*); in a suit by *E. F.* against *A. B.*"

Until the transfer of such instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made or document executed or receipt signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself.

Vesting order in case of other property.

303. In the case of any moveable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

(*c*.)—*Rules as to Immoveable Property.*

Sales of land by Court not inferior to a District Court.

304. Sales of immoveable property in execution of a decree may be ordered by any Court other than a Court of Small Causes.

Postponement of sale of land to enable defendant to raise amount of decree.

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may on his application postpone the sale of property comprised in the order for sale for such period as it thinks proper, to enable him to raise the amount.

Certificate to judgment-debtor.

In such case the Court shall grant a certificate to the judgment-debtor authorizing him, within a period to be mentioned therein, to make the proposed mortgage, lease or sale: provided that all moneys payable under such mortgage, lease or sale, shall be paid into Court and not to the judgment-debtor.

Where such certificate has been granted and so long as it remains in force, the provisions of section 248 shall not apply.

Deposit by purchaser of immoveable property.

306. On every sale of immoveable property under this chapter, the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per centum on the amount of his purchase-money to the officer conducting the sale, and, in default of such deposit, the property shall forthwith be put up again and sold.

Time for payment in full.

307. The full amount of purchase-money shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day, or if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day.

Procedure in default of payment.

308. In default of payment within the period mentioned in the last preceding section, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

Notification on re-sale of immoveable property.

309. Every re-sale of immoveable property in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

Co-sharer of a share of undivided estate sold in execution to have preference in bidding.

310. When the property sold in execution of a decree is a share of undivided immoveable property, and two or more persons, of whom one is a co-sharer,

respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the co-sharer.

Sale of land not set aside on ground of irregularity unless in case of substantial injury.

311. The decree-holder or any person whose immoveable property has been sold under this chapter may apply to the Court to set aside the sale on the ground of a material irregularity in publishing or conducting it;

but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

Effect of objection being disallowed and of its being allowed.

312. If no such application as is mentioned in the last preceding section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale as regards the parties to the suit and the purchaser.

If such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale.

No suit to set aside on the ground of such irregularity an order passed under this section shall be brought by the party against whom such order has been made.

Power to apply to set aside the sale.

313. The purchaser at any such sale may apply to the Court to set aside the sale, on the ground that the person whose property purported to be sold had no saleable interest therein, and the Court may make such order as it thinks fit: provided that no order to set aside a sale shall be made, unless the judgment-debtor and the decree-holder have had opportunity of being heard against such order.

Confirmation of sale.

314. No sale of immoveable property shall become absolute until it has been confirmed by the Court.

If sale set aside, price to be returned to purchaser.

315. When a sale of immoveable property is set aside under section 312 or 313,

or when it is found that the judgment-debtor had no saleable interest in the property which purported to be sold and the purchaser is for that reason deprived of it,

the purchaser shall be entitled to receive back his purchase-money (with or without interest as the Court may direct) from any person to whom the purchase-money has been paid.

The repayment of the said purchase-money and of the interest (if any) allowed by the Court may be enforced against such person under the rules provided by this Code for the execution of a decree for money.

Certificate to purchaser of immoveable property.

Certificate to state name of actual purchaser.

316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the name of the person who, at the time of sale, is declared to be the purchaser and the date of such sale.

Benámí purchaser not recognized.

317. No suit shall be maintained against the certified purchaser on the ground that the purchase was made on behalf of any other person, or on behalf of some one through whom such other person claims.

Nothing in this section shall bar a suit to obtain a declaration that the name of the certified purchaser was inserted in the certificate fraudulently or without the consent of the real purchaser.

Delivery of immoveable property in occupancy of judgment-debtor.

318. When the property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall, on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same.

Delivery of immoveable property in the occupancy of tenant.

319. When the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under section 316, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or in such other mode as may be customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser.

Power to prescribe rules for transferring to Collector execution of decrees sale of land.

320. The Local Government may, with the sanction of the Governor General in Council, declare by notification in the official Gazette that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold,

or the execution of any particular kind of such decrees,

or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property,

shall be transferred to the Collector;

and rescind or modify any such declaration.

Power to prescribe rules as to transmission, execution and retransmission of decrees.

The Local Government may also from time to time prescribe rules for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for retransmitting the decree from the Collector to the Court.

Power of Collector as to sale of land in execution of decree.

321. Whenever the execution of a decree has been so transferred, the Collector may—

(*a*) sell the property comprised in the decree by public auction and either in one or more lots as he thinks fit:

(*b*) fix a reasonable reserved price for each lot:

(*c*) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment:

(*d*) buy in the property offered for sale and re-sell the same.

Powers of Collector as to execution of certain money-decrees so transferred.

322. Whenever the execution of a decree not being a decree directing the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector may either proceed as the Court would proceed under section 305, or if he has reason to believe that the judgment-debts of the judgment-debtor can be discharged without a sale of the whole of such property, the Collector may (notwithstanding any order under section 303, but subject to such rules as may from time to time be made in this behalf by the Chief Controlling Revenue Authority) raise the amount necessary to discharge such debts with interest thereon according to the decree, or, if the decree makes no provision as to interest, then with interest (if any) at such rate as he thinks fit,

(*a*) by letting in perpetuity, or for a term, on payment of a premium equivalent to such amount, the whole or any part of the judgment-debtor's immoveable property: or

(*b*) by mortgaging the whole or any part of such property: or

(*c*) by selling part of such property: or

(*d*) by letting on farm or managing by himself or another the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale; or

(*e*) partly by one of such modes and partly by another or others of them.

For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

Procedure of Collector.

323. In the case of a decree for money, if the Collector proposes to proceed under section 322, he shall publish a notice in the language of the district, calling upon all persons holding decrees against the judgment-debtor to notify the same in writing to the Collector within sixty days from the date of such publication.

Such notice shall be published by being posted in the court-house of the Court which made the order under section 304, and at such other places (if any) as the Collector thinks fit.

So long as any letting or management under section 322 continues, the judgment-debtor and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property so let or managed, or any part thereof.

Sale by Collector.

324. If on the expiration of the letting or management, the amount necessary to discharge such debts in full with the interest (if any) payable thereon has not been raised, the Collector shall notify the fact in writing to the judgment-debtor or his representative, stating at the same time that, if the balance necessary to discharge such debts and interest is not paid to the Collector within six weeks of the date of such notice, the Collector will proceed to sell the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property accordingly.

Sale, &c., to be reported to Court by Collector.

325. Whenever the Collector sells any property pursuant to the said order of sale or exercises any of the powers conferred upon him by section 321 or 322, he shall inform the Court which made such order of the fact of such sale or exercise, and shall render accounts to such Court of his receipts and payments in respect of the said property, and shall hold the balance at the disposal of such Court.

Application of balance.

Such balance (after deducting therefrom any debts due or liabilities incurred to Government by the judgment-debtor) shall be applied rateably in discharging the claims of all the decree-holders who have complied with the said notice; and no other person making any claim against the property so let or managed, or against such proceeds, shall be entitled to be paid thereout.

When Court may authorize Collector to stay public sale of land.

326. When, in any local area in which no declaration under section 320 is in force, the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation or management of the land or share, the Court may authorize the Collector to provide for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. The provisions of sections 322 to 325 (both inclusive) shall in such case apply to the Collector.

Local rules as to sales of land in execution of decrees for money.

327. The Local Government may from time to time, with the sanction of the Governor General in Council, make special rules for any local area imposing conditions in respect of sale of any class of interests in land in execution of decrees for money, where such interests are so uncertain or undetermined as in the opinion of the Local Government to make it impossible to fix their value:

and if, when this Code comes into operation in any local area, any special rules as to sale of land in execution of decrees are in force therein, the Local Government may continue such rules in force, or may from time to time, with the sanction of the Governor General in Council, modify the same.

All rules so made or continued, and all such modifications of the same, shall be published in the local official Gazette, and shall thereupon have the force of law.

H.—Of Resistance to Execution.

Procedure in case of obstruction to execution of decree.

328. If in the execution of a decree for the possession of property, the officer charged with the execution of the warrant is resisted or obstructed by any person, the decree-holder may complain to the Court at any time within one month from the time of such resistance or obstruction.

The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Procedure in case of obstruction by judgment-debtor or at his instigation.

329. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, the Court shall inquire into the matter of the complaint, and pass such order as it thinks fit.

Procedure when obstruction continues.

330. If the Court is satisfied that the resistance or obstruction was without any just cause, and that the complainant is still resisted or obstructed in obtaining possession of the property by the judgment-debtor or some other person at his instigation, the Court may, at the instance of the decree-holder and without prejudice to any penalty to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for such resistance or obstruction, commit the judgment-debtor or such other person to jail for a term which may extend to thirty days, and direct that the decree-holder be put into possession of the property.

Procedure in case of obstruction by claimant in good faith, other than judgment-debtor.

331. If the resistance or obstruction has been occasioned by any person other than the judgment-debtor claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant;

and the Court shall, without prejudice to any proceedings to which the claimant may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of the Specific Relief Act, 1877, section 9,

and shall pass such order as it thinks fit for executing or staying execution of the decree.

Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.

332. If any person other than the defendant is dispossessed of any property in execution of a decree, and such person disputes the right of the decree-holder to dispossess him of such property under the decree, on the ground that the property was *bonâ fide* in his possession on his own account or on account of some person other than the judgment-debtor, and that it was not comprised in the decree, or that, if it was comprised in the decree, he was not a party to the suit in which the decree was passed, he may apply to the Court.

If, after examining the applicant, it appears to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like power as if a suit for the property had been instituted by the applicant against the decree-holder under the provisions of the Specific Relief Act, 1877, section 9,

and shall pass such order as it thinks fit for executing or staying execution of the decree.

In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

Nothing in this section or section 330 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made.

Orders passed under sections 331 and 332 to have force of decrees, and to be subject to appeal.

333. The order passed under either of sections 331 and 332 shall be in the nature of, and shall have the same force as, a decree in a suit, and shall be subject to the same conditions as to appeal or otherwise.

Resisting or obstructing purchasers in obtaining possession of immoveable property.

334. If the purchaser of any immoveable property sold in execution of a decree be resisted or obstructed by the judgment-debtor or any one on his behalf in obtaining possession of the property, the provisions of this chapter relating to resistance or obstruction to a decree-holder in obtaining possession of the property adjudged to him, shall be applicable.

Obstruction by claimant other than defendant.

335. If it appear that the resistance or obstruction was occasioned by any person other than the judgment-debtor, not in possession of the property sold, but claiming a right thereto as proprietor, mortgagee, lessee or under any other title, the Court, on the complaint of the purchaser, shall enquire into the matter of the resistance or obstruction, and pass such order thereon as it thinks fit.

The party against whom such order is passed may institute a suit to establish the right which he claims to the present possession of the property, but subject to the result of such suit, if any, the order shall be conclusive.

I.—Of Arrest and Imprisonment.

Place of judgment-debtor's imprisonment.

336. A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall as soon as practicable be brought before the Court, and his imprisonment may be in the civil jail of the district in which the Court ordering the imprisonment is situate, or, when such jail does not afford suitable accommodation, in any other place which the Local Government may appoint for the confinement of persons ordered to be imprisoned by the Courts of such district:

Arrest in houses.

Provided that no house shall be entered after sunset and before sunrise for the purpose of making an arrest under this section:

Proviso.

Provided also that when the decree in execution of which a judgment-debtor is arrested is a decree for money and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

The Local Government may, by notification published in the official Gazette, direct that whenever a judgment-debtor is arrested in execution of a decree for money and brought before the Court under this section, the Court shall inform him that he may apply under chapter XX to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application and if he places all his property in possession of a receiver appointed by the Court.

If after such publication the judgment-debtor express his intention so to apply, and if he furnish sufficient security that he will appear when called upon, and that he will within one month apply under section 344 to be declared an insolvent, the Court shall release him from arrest:

But if he fails so to apply, the Court may either direct the security to be realised or commit him to jail in execution of the decree.

337. Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid.

Warrant for arrest to direct judgment-debtor to be brought up.

338. The Local Government may from time to time prescribe scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

Scales of subsistence-allowances.

339. No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into court such sum as, having regard to the scales so fixed, the Judge thinks sufficient for the subsistence of the judgment-debtor from his arrest until he can be brought before the Court.

Judgment-debtor's subsistence-money.

When a judgment-debtor is committed to jail in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the said scales, or where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

The monthly allowance fixed by the Court shall be supplied by the party on whose application the decree has been executed, to the proper officer of the Court by monthly payments in advance before the first day of each month.

The first payment shall be made for such portion of the current month as remains unexpired before the judgment-debtor is committed to jail.

340. Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in jail shall be deemed to be costs on the suit:

Subsistence-money to be added to amount of decree.

Provided that the judgment-debtor shall not be detained in jail or arrested on account of any sum so disbursed.

341. The judgment-debtor shall be discharged from jail,

Release of judgment-debtor.

(*a*) on the decree being fully satisfied, or

(*b*) at the request of the person on whose application he has been imprisoned, or

(*c*) on such person omitting to pay the allowance as hereinbefore directed, or

(*d*) if the judgment-debtor be declared an insolvent, as hereinafter provided, or

(*e*) when the term of his imprisonment as limited by section 342 is fulfilled:

Provided that in the first, second, third and fourth cases mentioned in this section, the judgment-debtor shall not be discharged without the order of the Court.

A judgment-debtor discharged under this section is not thereby discharged from his debt, but he cannot be re-arrested under the decree in execution of which he was imprisoned.

342. No person shall be imprisoned in execution of a decree for a longer period than six months;

Imprisonment not to exceed six months.

or for a longer period than six weeks if the decree be for the payment of a sum of money not exceeding fifty rupees.

When not to exceed six weeks.

343. The officer entrusted with the execution of the warrant shall endorse thereupon the day on, and the manner in, which it was executed; and if the latest day specified in the warrant for the return thereof has been exceeded, the reason of the delay; or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the Court.

Endorsement on warrant.

If the endorsement is to the effect that such officer is unable to execute the warrant, the Court shall examine him on oath touching his alleged inability, and may, if it think fit, summon and examine witnesses as to such inability and shall record the result.

CHAPTER XX.

OF INSOLVENT JUDGMENT-DEBTORS.

344. Any person arrested or imprisoned in execution of a decree for money may apply in writing to be declared an insolvent.

Power to apply to be declared an insolvent.

Such application shall be made to the District Court which ordered his arrest or imprisonment, or when the District Court did not make such order, then to the District Court to which the Court that made the order is subordinate.

345. The application shall set forth—

Contents of application.

(*a*) the fact of such person's arrest or imprisonment, the Court by whose order he was arrested or imprisoned, and the place in which he is in custody;

(*b*) the amount, kind and particulars of his property, and the value of any such property not consisting of money;

(*c*) the place or places in which such property is to be found;

(*d*) his willingness to put it at the disposal of the Court;

(*e*) the amount and particulars of all pecuniary claims against him; and

(*f*) the names and residences of his creditors, so far as they are known to or can be ascertained by him.

346. The application shall be subscribed and verified by the applicant in manner hereinbefore prescribed for subscribing and verifying plaints.

Subscription and verification of application.

347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in Court and served at the applicant's expense on the holder of the decree in execution of which he was arrested or imprisoned, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application.

Service on decree-holder of copy of application and notice.

The Court may, if it thinks fit, publish at the applicant's expense the application in such official Gazettes and public newspapers as it thinks fit.

348. The Court may also, if it thinks fit, cause a like copy and notice to be served on any other person alleging himself to be a creditor of the applicant and applying for leave to be heard on the application.

Power to serve other creditors.

349. Where the applicant is under arrest, the Court may, pending the hearing under section 350, order him to be immediately committed to jail; or leave him in the custody of the officer to whom the service of the warrant was entrusted.

Powers of Court as to applicant under arrest.

350. On the day so fixed, or on any subsequent day to which the Court may adjourn the hearing, the Court shall examine the applicant, in the presence of the persons on whom such notice has been served or their pleaders, as to his then circumstances and as to his future means of payment, and shall hear the said decree-holder, the other creditors mentioned in the application and the other persons (if any) alleging themselves to be creditors, in opposition to the applicant's discharge; and may, if it thinks fit, grant time to the said decree-holder and other creditors or persons to adduce evidence showing that the applicant is not entitled to be declared an insolvent.

Procedure at hearing.

351. If the Court is satisfied—

Declaration of insolvency and appointment of receiver.

(*a*) that the statements in the application are substantially true;

(*b*) that the applicant has not, with intent to defraud his creditors, concealed, transferred or removed any part of his property since the institution of the suit in which was passed the decree in execution of which he was arrested or imprisoned or at any subsequent time;

(*c*) that he has not, knowing himself to be unable to pay his debts in full, recklessly contracted debts or given an unfair preference to any of his creditors by any payment or disposition of his property;

(*d*) that he has not committed any other act of bad faith regarding the matter of the application,

the Court may declare him to be an insolvent, and may also, if it think fit, make an order appointing a receiver of his property, or if it does not appoint such receiver, may discharge the insolvent.

352. The creditors mentioned in the application and the other persons (if any) alleging themselves to be creditors of the insolvent, shall then produce evidence of the amount and particulars of their respective pecuniary claims against him; and the Court shall by order determine the persons who have proved themselves to be the insolvent's creditors and their respective debts; and shall frame a schedule of such persons and debts; and the declaration under section 351 shall be deemed to be a decree in favour of each of the said creditors for their said respective debts.

Creditors to prove their debts.

Schedule to be framed.

A copy of every such schedule shall be stuck up in the court-house.

Nothing in this section shall be deemed to entitle a partner in an insolvent firm or, when he has died before the insolvency, his legal representative, to prove in competition with the creditors of the firm.

353. Any creditor of the insolvent who is not mentioned in such schedule may, within three months from its publication, apply to the Court for permission to produce evidence of the amount and particulars of his pecuniary claims against the insolvent, and in case the applicant proves himself to be a creditor of the insolvent, for an order directing his name to be inserted in the schedule as a creditor for the debt so proved.

Applications by creditors.

Any creditor mentioned in the schedule may within three months from the publication of the schedule apply to the Court for an order altering the schedule so far as regards the amount, nature, or particulars of his own debt, or to strike out the name of another creditor, or to alter the schedule so far as regards the amount, nature, or particulars of the debt of another creditor.

In the case of any application under this section, the Court, after causing such notices as it thinks fit to be served, at the applicant's expense, on the insolvent and the other creditors and hearing their objections, if any, may comply with or reject the application.

354. Every order under section 351 shall be published in the local official Gazette and shall operate to vest in the Receiver all the insolvent's property (except the particulars specified in the first proviso to section 266), whether set forth in his application or not.

Effect of order appointing Receiver.

355. The Receiver so appointed shall give such security as the Court may direct and shall possess himself of all such property, except as aforesaid;

Receiver to give security and collect assets.

and on his certifying that the insolvent has placed him in possession thereof, or has done everything in his power for that purpose, the Court may discharge the insolvent from arrest or imprisonment, as the case may be, upon such conditions (if any) as the Court thinks fit.

Discharge of insolvent.

356. The Receiver shall proceed under the direction of the Court—

Duty of Receiver.

(*a*) to convert the property into money:

(*b*) to pay thereout debts, fines and penalties (if any) due by the insolvent to Government:

(*c*) to pay the said decree-holder's costs:

(*d*) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts, and without any preference;

and such Receiver may retain as a remuneration for the performance of his duties a commission, to be fixed by the Court, not exceeding the rate of five per centum upon the amount of the balance so distributed (the amount of the commission so retained being deemed a distribution), and shall deliver the surplus, if any, to the insolvent or his legal representative.

His right to remuneration.

Delivery of surplus.

357. An insolvent discharged under section 355 shall not be arrested or imprisoned on account of any of the scheduled debts. But (subject to the provisions of section 358) his

Effect of discharge.

property, whether previously or subsequently acquired (except the particulars specified in the first proviso to section 266 and except the property vested in the Receiver), shall, by order of the Court, be liable to attachment and sale until the decrees against him held by the scheduled creditors are fully satisfied or become incapable of being executed.

358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts.

When Court may declare insolvent absolved from further liability.

359. Whenever, at the hearing under section 350, it is proved that the applicant has

Procedure in case of dishonest applicant.

(*a*) been guilty, in his application, of any concealment or of wilfully making any false statement as to the debts due by him, or respecting the property belonging to him, whether in possession or in expectancy, or held for him in trust;

(*b*) fraudulently concealed, transferred or removed any property; or

(*c*) committed any other act of bad faith regarding the matter of the application,

the Court shall, at the instance of any of his creditors, sentence him to imprisonment for a term which may extend to one year from the date of committal.

Or the Court may, if it think fit, send him to the Magistrate to be dealt with according to law.

360. The Local Government may, by notification in the official Gazette, invest any Court other than a District Court with the powers conferred on District Courts by sections 344 to 359 (both inclusive), and the District Judge may transfer to any Court situate in his district and so invested any case instituted under section 344.

Investment of other Courts with powers of District Courts.

Transfer of cases.

Any Court so invested may entertain any application under section 344 by any person arrested in execution of a decree of such Court.

PART II.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

361. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survives.

No abatement by party's death, if cause of action survive.

Illustrations.

(*a*) A covenants with B and C to pay an annuity to B during C's life. B and C sue A to compel payment. B dies before the decree: the cause of action survives to C, and the suit does not abate.

(*b*) In the same case, all the parties die before decree. The cause of action survives to the representative of the survivor of B and C, and he may continue the suit against A's representative.

(*c*) A sues B for libel. A dies. The cause of action does not survive and the suit abates.

(*d*) A, a member of a Hindú joint family under the Mitákshará law, institutes a suit for partition of the family property. A dies leaving B, a minor son, his heir. The cause of action survives to B, and the suit does not abate.

362. If there be more plaintiffs or defendants than one, and any of them dies, and if the cause of action survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs or defendants, if cause of action survive.

363. If there be more plaintiffs than one, and any of them dies, and if the cause of action does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of such legal representative, enter his name on the record in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative.

Proceeding in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.

364. If no application be made to the Court by any person claiming to be the legal representative of a deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs;

Proceeding where no application made by representative of deceased plaintiff.

and the legal representative (if any) of the deceased plaintiff shall be made a party and shall be interested in and bound by the decree passed in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

365. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, where the cause of action survives, on the application of the legal representative of the deceased, enter his name in the place of such plaintiff on the record, and the suit shall thereupon proceed.

Proceeding in case of death of sole, or sole surviving, plaintiff.

366. If no such application be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the Court may pass an order that the suit shall abate, and award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff;

Abatement where no application by representative of deceased plaintiff.

or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs or otherwise as it thinks fit, pass such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

Explanation.—A certificate of heirship, or a certificate to collect debts, does not of itself constitute the person holding it the legal representative of the deceased. But when the person holding any such certificate obtains thereby property belonging to the deceased, he may be treated as a legal representative liable in respect of such property.

367. If any dispute arise as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Procedure in case of dispute as to representative of deceased plaintiff.

368. If there be more defendants than one, and any of them die before decree and the cause of action does not survive against the surviving defendant or defendants alone,

Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.

and also in case of the death of a sole defendant, or sole surviving defendant, where the right to sue survives,

the plaintiff may make an application to the Court, specifying the name, description and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead.

The Court shall thereupon enter the name of such representative on the record in the place of such defendant,

and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit;

and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit:

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

369. The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and where the decree is against a female defendant, it may thereupon be executed against her alone.

Suit not abated by marriage of female party.

If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

370. The bankruptcy or insolvency of a plaintiff in any suit which his assignee or the receiver appointed under section 351 might maintain for the benefit of his creditors shall not bar the suit, unless such assignee or receiver declines to continue the suit and to give security for the costs thereof within such time as the Court may order.

When plaintiff's bankruptcy or insolvency bars suit.

If the assignee or receiver neglect or refuse to continue the suit and to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

Procedure when assignee fails to continue suit or give security.

371. When a suit abates or is dismissed under this chapter, no fresh suit shall be brought on the same cause of action.

Effect of abatement on parties' rights.

But the person claiming to be the legal representative of the deceased bankrupt or insolvent plaintiff, may apply for an order to set aside the order for abatement or dismissal; and if it be proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

Application to set aside abatement or dismissal.

372. In other cases of assignment, creation or devolution of any interest pending the suit, the suit may, with the leave of the Court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come, either in addition to or in substitution for the person from whom it has passed, as the case may require.

Procedure in case of assignment pending the suit.

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. If, at any time after the institution of the suit, the Court is satisfied on the application of the plaintiff (*a*) that the suit must fail by reason of some formal defect, or (*b*) that there are sufficient grounds for permitting him to withdraw from the suit or to abandon part of his claim with liberty to bring a fresh suit for the subject-matter of the suit or for the part so abandoned, the Court may grant such permission on such terms as to costs or otherwise as it thinks fit.

Power to allow plaintiff to withdraw with liberty to bring fresh suit.

If the plaintiff withdraw from the suit, or abandon part of his claim, without such permission, he shall be liable for such costs as the Court may award, and shall be precluded from bringing a fresh suit for the same matter.

Nothing in this section shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

374. In any fresh suit instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been brought.

Limitation-law not affected by first suit.

375. If a suit be adjusted by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the Court shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final.

Compromise of suits.

CHAPTER XXIII.

OF PAYMENT INTO COURT.

Deposit by defendant of amount in satisfaction of claim.

376. The defendant in any suit to recover a debt or damages, may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

Notice of deposit.

377. Notice of the deposit shall be given by the defendant to the plaintiff, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the plaintiff on his application.

Interest on sum deposited not allowed to plaintiff after receipt of notice.

378. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

Procedure where plaintiff accepts deposit as satisfaction in part.

379. If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the Court decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff must pay the costs of the suit incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

Procedure where he accepts it as satisfaction in full.

If the plaintiff accept such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall pass judgment accordingly, and in directing by whom the costs of each party are to be paid, the Court shall consider which of the parties is most to blame for the litigation.

Illustrations.

(*a*) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim, but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(*b*) B sues A under the circumstances mentioned in illustration (*a*). On the plaint being filed, A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shown that the litigation was necessary.

(*c*) A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

When security for costs may be required from plaintiff at any stage of suit.

380. If, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of British India, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immoveable property within British India independent of the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by any defendant.

Procedure where requisition is not complied with.

381. In the event of such security not being furnished within the time so fixed, the Court shall dismiss the suit unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of section 373.

Residence out of British India.

382. Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs shall be deemed to be residing out of British India, within the meaning of section 380.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

Cases in which Court may issue commission to examine witness.

383. Any Court may in any suit issue a commission for the examination on interrogatories or otherwise of persons resident within the local limits of its jurisdiction, who are exempted under this Code from attending the Court, or who are from sickness or infirmity unable to attend it.

Order for commission may be made either on application of parties or by Court of its own accord.

384. Such order may be made by the Court either of its own motion, or on the application, supported by affidavit, of any party to the suit or of the witness to be examined.

When witness resides within Court's jurisdiction.

385. The commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same, may be issued to any person whom the Court thinks fit to execute the same.

When witness resides beyond Court's jurisdiction, but in British India.

386. Any Court may in any suit issue a commission for the examination of—

(*a*) any person resident beyond the local limits of its jurisdiction;

(*b*) persons who are about to leave such limits before the date on which they are required to be examined in Court; and

(*c*) civil and military officers of Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

Such commission shall ordinarily be issued to any Court not being a High Court, within the local limits of whose jurisdiction such person resides, and which can most conveniently execute the same:

When witness is within local limits of ordinary original civil jurisdiction of a High Court.

Provided that if he resides beyond the local limits of the jurisdiction of the Court issuing the commission and within the towns of Calcutta, Madras, Bombay or Rangoon, the commission shall be issued to the Court of Small Causes within whose jurisdiction he resides:

Provided also that, under special circumstances, the commission may be directed to any person whom the Court issuing the commission thinks fit to appoint.

The Court on issuing any commission under this section shall direct whether the commission shall be returned to itself or to any subordinate Court.

When witness is not within British India.

387. When any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied that his evidence is necessary, the Court may issue such commission.

Court to examine witness pursuant to commission.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

Commission when executed to be returned to Court issuing it with depositions of witnesses.

389. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit.

When depositions may be read in evidence.

390. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless

(*a*) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or

(*b*) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in the last preceding clause, and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Provisions as to execution and return of commissions to apply to commissions issued by foreign Courts.

391. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by

(*a*) Courts situate beyond the limits of British India and established by the authority of Her Majesty or of the Governor General in Council, or

(*b*) Courts situate in any part of the British Empire other than British India, or

(*c*) Courts of any foreign country for the time being in alliance with Her Majesty.

B.—Commissions for Local Investigations.

Commission to make local investigations.

392. In any suit or proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual nett profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report thereon to the Court:

Provided that, when the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

Procedure of Commissioner.

393. The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, subscribed with his name, to the Court.

Report and depositions to be evidence in suit.

The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court, or any of the parties to the suit may, with the permission of the Court, examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

Commissioner may be examined in person.

C.—Commissions to examine Accounts.

Commission to examine or adjust accounts.

394. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

Court to give Commissioner necessary instructions.

395. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

Proceedings of Commissioner receivable in evidence.

Power to make further inquiry.

The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

D.—Commission to make Partition.

Commission to make partition of non-revenue-paying immoveable property.

396. In any suit in which the partition of immoveable property not paying revenue to Government appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

The Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission issues, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party, and dis-

tinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court: and the Court, after hearing any objections which the parties may make to the report or reports shall either quash the same and issue a new commission, or (where the Commissioners agree in their report) pass a decree in accordance therewith.

E.—General Provisions.

Expenses of commission to be paid into Court.

397. Before issuing any commission under this chapter, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be paid into Court by the party at whose instance or for whose benefit the commission is issued.

Commissioner may examine parties and witnesses and call for papers.

398. Any Commissioner appointed under this chapter may, unless otherwise directed by the order of appointment,

(*a*) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him:

(*b*) call for and examine documents and other things relevant to the subject of inquiry:

(*c*) at any reasonable time enter upon or into any land or building mentioned in the order.

Attendance, examination and punishment of witnesses before Commissioner.

399. The provisions of this Code relating to the summoning, attendance and examination of witnesses and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India.

Procedure *ex parte* where parties do not appear.

400. Whenever a commission is issued under this chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

If the parties do not so appear, the Commissioner may proceed *ex parte*.

PART III.
OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.
SUITS BY PAUPERS.

Suits may be brought *in forma pauperis*.

401. Subject to the following rules, any suit may be brought by a pauper.

Explanation.—A person is a 'pauper' when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing apparel and the subject-matter of the suit.

What suits excepted.

402. No suit shall be brought by a pauper to recover compensation for loss of caste, libel, slander, abusive language or assault.

Application to be in writing.

403. The application for permission to sue by a pauper shall be in writing, and shall contain the particulars required by section 50 in regard to plaints in suits: a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, shall be annexed thereto; and it shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

Contents of application.

Presentation of application.

404. Notwithstanding anything contained in section 36, the application shall be presented to the Court by the applicant in person unless he is exempted from appearing in Court under section 640 or 641, in which case the application may be presented by a duly authorized agent, who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Rejection of application.

405. If the application be not framed or presented in the manner prescribed by sections 403 and 404, the Court shall reject it.

Examination of applicant.

406. If the application be in proper form and duly presented, the Judge shall examine the petitioner, or his agent when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

If presented by agent, Court may order applicant to be examined by commission.

When the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken under the provisions of this Code.

Rejection of application.

407. If it appear to the Court upon such examination

(*a*) that the applicant is not a pauper, or

(*b*) that he has, within the two months next before the presentation of the application, disposed of any property fraudulently or with a view to obtain the benefit of this chapter, or

(*c*) that his allegations do not show a right to sue in such Court, or

(*d*) that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter,

the Court shall reject the application.

Notice of day for receiving evidence of applicant's pauperism.

408. If upon such examination the Court sees no reason to refuse the application on any of the grounds stated in section 407, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party and the Government Pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and

for hearing any evidence which may be adduced in disproof thereof.

Procedure at hearing.

409. On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may cross-examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in section 407.

The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

Procedure if application admitted.

410. If the application be granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under chapter V, except that the plaintiff shall not be liable to any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

Costs when pauper succeeds.

411. If the plaintiff succeed in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code.

Recovery of court-fees.

Procedure when pauper fails.

412. If the plaintiff fails in the suit, or if he is dispaupered, the Court shall order the plaintiff, or any person made under section 32 co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper;

and, if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.

413. Refusal to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by Government in opposing his application for leave to sue as a pauper.

Dispaupering.

414. The Court may, on motion by the defendant, or by the Government Pleader, of which one week's notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

(*a*) if he is guilty of vexatious or improper conduct in the course of the suit;

(*b*) if it appears that his means are such that he ought not to continue to sue as a pauper, or

(*c*) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

Costs.

415. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism are costs in the suit.

CHAPTER XXVII.
SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

Suits by or against Secretary of State in Council.

416. Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council.

Persons authorized to act for Government.

417. Persons being *ex-officio* or otherwise authorized to act for Government in respect of any judicial proceeding, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of Government.

Plaints in suits by Secretary of State in Council.

418. In suits by the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "The Secretary of State for India in Council."

Agent of Government to receive process.

419. The Government Pleader in any Court shall be the agent of the Government for the purpose of receiving processes against the said Secretary of State in Council issuing out of such Court.

Appearance and answer by Secretary of State in Council.

420. The Court, in fixing the day for the said Secretary of State in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of intructions to the Government Pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

Attendance of person able to answer questions relating to suit against Government.

421. The Court may also in any case in which the Government Pleader is not accompanied by any person on the part of the said Secretary of State in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

Service on public officers.

422. Where the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being

served on him, if it appear to the Court that the summons may be most conveniently so served.

Extension of time to enable officer to make reference to Government.

423. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel;

and the Court upon such application may extend the time for so long as appears to be requisite.

Notice previous to suing Secretary of State in Council or public officer.

424. No suit shall be instituted against the said Secretary of State in Council or against a public officer until the expiration of two months next after notice in writing has been in the case of the Secretary of State in Council delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

Arrests in such suits.

425. No warrant of arrest shall be issued in such suit without the consent in writing of the District Judge.

Application where Government undertakes defence.

426. If the Government undertake the defence of a suit against a public officer, the Government Pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register.

Procedure where no such application made.

427. If such application is not made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

Defendant not liable to arrest before judgment.

Exemption of public officers from personal appearance.

428. In a suit against a public officer the Court shall exempt the defendant from appearing in person when he satisfies the Court that he cannot absent himself from his duty without detriment to the public service.

Procedure where decree is against Government or a public officer.

429. When the decree is against the said Secretary of State in Council or against a public officer, a time shall be specified in the decree within which it shall be satisfied; and if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Execution shall not issue on any such decree unless it remains unsatisfied for the period of three months computed from the date of the report.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

When aliens may sue.

430. Alien enemies residing in British India with the permission of the Governor General in Council and alien friends may sue in the Courts of British India as if they were subjects of Her Majesty.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

When a foreign State may sue.

431. A foreign State may sue in the Courts of British India, provided that—

(*a*) it has been recognized by Her Majesty or the Governor General in Council, and

(*b*) the object of the suit is to enforce the private rights of the head or of the subjects of the foreign State.

The Court shall take judicial notice of the fact that a foreign State has not been recognized by Her Majesty or by the Governor General in Council.

Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.

432. Persons specially appointed by order of Government at the request of any Sovereign Prince or ruling Chief, whether in subordinate alliance with the British Government or othrewise, and whether residing within or without British India, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

Suits against Sovereign Princes, &c.

433. Any such Prince or Chief, and any ambassador or envoy of a foreign State may, with the consent of Government certified by the signature of one of its Secretaries (but not without such consent) be sued in any competent Court not subordinate to a District Court;

Such consent shall not be given unless—

(*a*) the Prince, Chief, ambassador or envoy has instituted a suit in such Court against the person desiring to sue him, or

(*b*) the Prince, Chief, ambassador or envoy by himself or another trades within the local limits of the jurisdiction of such Court; or

(*c*) the subject-matter of the suit is immoveable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

Sovereign Princes, &c., exempt from arrest.

No such Prince, Chief, ambassador or envoy shall be arrested under this Code; and no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy unless with consent of Government certified as aforesaid.

When their property may be attached.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

Execution in British India of decrees of Courts of Native States.

(*a*) declare that the decrees of any Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor General in Council. may be executed in British India as if they had been made by the Courts of British India, and

(*b*) cancel any such declaration.

So long as such declaration remains in force, the said decrees may be executed accordingly.

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

Subscription and verification of plaint.

435. In suits by a Corporation, or by a Company authorized to sue and be sued in the name of an officer or of a trustee, the plaint may be subscribed and verified on behalf of the Corporation or Company by any director, secretary, or other principal officer of the Corporation or Company, who is able to depose to the facts of the case.

Service on Corporation or Company.

436. When the suit is against a Corporation, or against a Company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served

(*a*) by leaving it at the registered office (if any) of the Corporation or Company, or

(*b*) by sending it by post in a letter addressed to such officer or trustee at the office (or if there be more offices than one, at the principal office in British India) of the Corporation or Company, or

(*c*) by giving it to any director, secretary or other principal officer of the Corporation or Company,

and the Court may require the personal appearance of any director, secretary or other principal officer of the Corporation or Company who may be able to answer material questions relating to the suit.

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

Representation of beneficiaries in suits concerning property vested in trustees, &c.

437. In all suits concerning property vested in a trustee, executor or administrator, the trustee, executor or administrator shall represent the persons beneficially interested in such property; and it shall not ordinarily be necessary to make such persons parties to the suit. But the Court may, if it think fit, order them or any of them to be made such parties.

Joinder of executors and administrators.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them:

Provided that executors who have not proved their testator's will, and executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

Husband of married executrix not to join.

439. Unless the Court directs otherwise, the husband of a married administratrix or executrix shall not be a party to a suit by or against her.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

Minor must sue by next friend.

440. Every suit by a minor shall be instituted in his name by an adult person, who in such suit shall be called the next friend of the minor, and may be ordered to pay any

Costs.

costs in the suit as if he were the plaintiff.

Applications to be made by next friend or guardian *ad litem*.

441. Every application to the Court on behalf of a minor (other than an application under section 451) shall be made by his next friend, or his guardian for the suit.

Plaint filed without next friend to be taken off the file.

442. If a plaint be filed by or on behalf of a minor, without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other

Costs.

person by whom it was presented. Notice of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

Guardian *ad litem* to be appointed by the Court.

443. Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

Order obtained without next friend or guardian may be discharged.

444. Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, if the pleader of the party at whose instance such order was obtained knew, or might reasonably have

Costs.

known, the fact of such minority, with costs to be paid by such pleader.

Who may be next friend.

445. Any person being of sound mind and full age may act as next friend of a minor, provided his interest is not adverse to that of such minor, and he is not a defendant in the suit.

446. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor, as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

Removal of next friend.

447. Unless otherwise ordered by the Court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

Retirement of next friend.

The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor.

Application for appointment of new next friend.

448. On the death or removal of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

Stay of proceedings on death or removal of next friend.

449. If the pleader of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

Application for appointment of new next friend.

450. A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, on coming of age must elect whether he will proceed with the suit or application.

Course to be followed by minor plaintiff or applicant on coming of age.

451. If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

Where he elects to proceed.

The title of the suit or application shall in such case be corrected so as to read thenceforth thus:

"*A. B.* late a minor by *C. D.*, his next friend, but now of full age."

452. If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

Where he elects to abandon.

Costs.

453. Any application under section 451 or section 452 may be made *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

Making and proving applications under sections 451, 452.

454. A minor co-plaintiff on coming of age, and desiring to repudiate the suit must apply to have his name struck out as co-plaintiff; and the Court, if it find that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

When minor co-plaintiff.

Notice of the application shall be served on the next friend, as well as on the defendant; and it must be proved by affidavit that the late minor has attained his full age. The costs of all parties of such application and of all or any proceedings theretofore had in the suit shall be paid by such persons as the Court directs.

Costs.

If the late minor be a necessary party to the suit, the Court may direct him to be made a defendant.

455. If any minor on attaining majority can prove to the satisfaction of the Court that a suit instituted in his name by a next friend was unreasonable or improper, he may, if a sole plaintiff, apply to have the suit dismissed.

When suit unreasonable or improper.

Notice of the application shall be served on all the parties concerned: and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit.

Costs.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name of the minor. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is a fit person to be so appointed.

Petition for appointment of guardian *ad litem*.

457. A co-defendant of sound mind and of full age may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a married woman, can be so appointed.

Who may be guardian *ad litem*.

458. If the guardian for the suit of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the Court may remove him, and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

Guardian neglecting his duty may be removed.

Costs.

459. If the guardian for the suit dies pending such suit or is removed by the Court, the Court shall appoint a new guardian in his place.

On death of guardian, *pendente lite*, new guardian to be appointed.

460. When the enforcement of a decree is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

When decree to be enforced against heir or representative.

461. No sum of money or other thing shall be received or taken by a next friend or guardian for the suit at any time on behalf of a minor, at any time before decree or order, unless he has first obtained the leave of the Court, and given security to its satisfaction that such money or other thing shall be duly accounted for, to, and held for the benefit of, such minor.

Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.

462. No next friend or guardian for the suit shall, without the leave of the Court, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which he acts as next friend or guardian.

Next friend or guardian *ad litem* not to compromise without leave of Court.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

Compromise without leave voidable.

463. The provisions contained in sections 440 to 462 (both inclusive) shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under Act No. XXXV of 1858, or under any other law for the time being in force.

Application of sections 440 to 462 to persons of unsound mind.

464. Nothing in sections 442 to 462 applies to any minor or person of unsound mind, for whose person or property a guardian or manager has been appointed by the Court of Wards or by the Civil Court under any local law.

Wards of Court.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

465. When any officer or soldier actually serving the Government in a military capacity is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

The authority shall be in writing and shall be signed by the officer or soldier in the presence of (*a*) his commanding officer or of the next subordinate officer, if the party be himself the commanding officer, or (*b*) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority which shall be filed in Court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation.—In this chapter the expression 'commanding officer' means the officer in actual command for the time being of any regiment, corps, detachment or depôt, to which the officer or soldier belongs.

466. Any person authorized by an officer or soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

Person so authorized may act personally or appoint pleaders.

467. Processes served upon any person authorized by an officer or soldier, as in section 465, or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader.

Service on person so authorized, or on his pleader, to be good service.

468. When an officer or soldier is a defendant, the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him.

Service on officers and soldiers.

The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

469. If, in the execution of a decree, a warrant of arrest is to be executed within the limits of a cantonment, garrison, military station or military bázár, the officer charged with the execution of such warrant shall deliver the same to the commanding officer.

Execution of warrant of arrest in cantonments, &c.

The commanding officer shall back the warrant with his signature, and the person named therein is within the limits of his command shall cause him to be arrested and delivered to the officer so charged.

CHAPTER XXXIII.

INTERPLEADER.

470. When two or more persons claim adversely to one another the same payment or property from another person, whose only interest therein is that of a mere stakeholder and who is ready to render it to the right owner, such stakeholder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property should be made or delivered, and of obtaining indemnity for himself:

When interpleader-suit may be instituted.

Provided that if any suit is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaint must, in addition to the other statements necessary for plaints, state—

Plaint in such suit.

(*a*) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder;

(*b*) the claims made by the defendants severally; and

(*c*) that there is no collusion between the plaintiff and any of the defendants.

Payment of thing claimed into court.

472. When the thing claimed is capable of being paid into court or placed in the custody of the Court, the plaintiff must so pay or place it before he can be entitled to any order in the suit.

Procedure at first hearing.

473. At the first hearing the Court may

(*a*) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit:

or, if it thinks that justice or convenience so require,

(*b*) retain all parties until the final disposal of the suit:

and, if it finds that the admissions of the parties or other evidence enable it,

(*c*) adjudicate the title to the thing claimed; or else it may

(*d*) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court.

When agents and tenants may institute interpleader-suits.

474. Nothing in this chapter shall be taken to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(*a*) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(*b*) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader-suit against A and C.

Charge of plaintiff's costs.

475. When the suit is properly instituted, the Court may provide for the plaintiff's costs by giving him a charge on the thing claimed or in some other effectual way.

Procedure where a defendant is suing stakeholder.

476. If any of the defendants in an interpleader-suit is actually suing the stakeholder in respect of the subject of such suit, the Court in which the suit against the stakeholder is pending shall, on being duly informed by the Court which passed the decree in the interpleader-suit in favour of the stakeholder, that such decree has been passed, stay the proceedings as against him; and his costs in the suit so stayed may be provided for in such suit; but if, and so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

Costs.

PART IV.

PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

When plaintiff may apply that security be taken.

477. If at any stage of any suit, other than a suit for the possession of immoveable property, the plaintiff satisfies the Court by affidavit—

that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,

(*a*) has absconded or left the jurisdiction of the Court, or

(*b*) is about to abscond or to leave the jurisdiction of the Court, or

(*c*) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit.

Order to bring up defendant to show cause why he should not give security.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied

that the defendant, with any such intent as aforesaid,

(*a*) has absconded or left the jurisdiction of the Court, or

(*b*) is about to abscond or to leave the jurisdiction of the Court, or

(*c*) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under the circumstances last aforesaid,

the Court may issue an order for bringing the defendant before the Court to show cause why he should not give security for his appearance.

If defendant fail to show cause, Court may order him to make deposit or give security.

479. If the defendant fail to show such cause, the Court shall order him either to deposit in court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit.

The surety shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

Procedure in case of application by surety to be discharged.

480. The surety for the appearance of the defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

Procedure where defendant fails to give security or find fresh security.

481. If the defendant fail to comply with any order under section 479 or section 480, the Court may commit him to jail until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree: Provided that no person shall be imprisoned under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees.

Subsistence of defendant arrested.

482. The provisions of section 339 as to allowances payable for the subsistence of judgment-debtors shall apply to all defendants arrested under this chapter.

B.—Attachment before Judgment.

Application before judgment for security from defendant to satisfy decree, and in default, for attachment of property.

483. If at any stage of any suit the plaintiff satisfies the Court by affidavit that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,

(*a*) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(*b*) has quitted the jurisdiction of the Court, leaving therein property belonging to him,

the plaintiff may apply to the Court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit, and, on his failing to give such security, to direct that any portion of his property shall be attached until the further order of the Court.

Contents of application.

The application shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

Court may call on defendant to furnish security or show cause.

484. If the Court, after examining the applicant, and making any further investigation which it thinks fit, is satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, the Court may require him, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

Attachment if cause not shown or security not furnished.

485. If the defendant fail to show cause why he should not furnish security, or fail to furnish the security required within the time fixed by the Court, the Court may order that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, shall be attached.

Withdrawal of attachment.

If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

Mode of making attachment.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

Investigation of claims to property attached before judgment.

487. If any claim be preferred to the property attached before judgment, such claim shall be investigated in the manner herein-before provided for the investigation of claims to property attached in execution of a decree for money.

Removal of attachment when security furnished.

488. When an order of attachment before judgment is passed, the Court which passed the order shall remove the attachment whenever the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

Attachment not to affect rights of strangers, or bar the decree-holder from applying for sale.

489. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Property attached under this chapter, not to be re-attached in execution of decree.

490. Where property is under attachment by virtue of the provisions of this chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to re-attach the property in execution of such decree.

C.—Compensation for improper Arrests or Attachments.

Compensation for obtaining arrest or attachment on insufficient grounds.

491. If in any suit in which an arrest or attachment has been effected, it appear to the Court that such arrest or attachment was applied for on insufficient grounds,

or if the suit of the plaintiff fails, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding one thousand rupees, as

it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment:

Proviso.

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

Cases in which temporary injunction may be granted.

492. If in any suit it be proved by affidavit or otherwise

(*a*) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(*b*) that the defendant threatens, or is about to remove or dispose of his property with intent to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or give such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, or refuse such injunction or other order.

Injunction to restrain repetition or continuance of breach.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, whether compensation be claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

The Court may by order grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit, or refuse the same.

In case of disobedience, an injunction granted under this section or section 492 may be enforced by the imprisonment of the defendant for a term not exceeding six months, or the attachment of his property, or both.

No attachment under this section shall remain in force for more than one year, at the end of which time if the defendant has not obeyed the injunction, the property attached may be sold, and out of the proceeds the Court may award to the plaintiff such compensation as it thinks fit and may pay the balance, if any, to the defendant.

Before granting injunction, Court may direct notice to be given to opposite party.

494. The Court shall in all cases, except where it appear that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

Injunction to corporation binding on its members and officers.

495. An injunction directed to a corporation or public company is binding not only on the corporation or company itself, but also on all members and officers of the corporation or company whose personal action it seeks to restrain.

Order for injunction may be discharged, varied or set aside.

496. Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Compensation to defendant for issue of injunction on insufficient grounds.

497. If it appears to the Court that the injunction was applied for on insufficient grounds, or

if, after the issue of the injunction, the suit is dismissed or judgment is given against the plaintiff by default or otherwise, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction:

Proviso.

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

B.—Interlocutory Orders.

Power to order interim sale of perishable articles.

498. The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any moveable property being the subject of such suit, which is subject to speedy and natural decay.

Power to make order for detention, &c., of subject-matter and to authorize entry, taking of samples and experiments.

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit,

(*a*) make an order for the detention, preservation or inspection of any property being the subject of such suit;

(*b*) for all or any of the purposes aforesaid, authorize any person to enter upon or into any land or building in the possession of any other party to such suit, and

(*c*) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

The provisions hereinbefore contained as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this section.

Application for such orders to be after notice.

500. An application by the plaintiff for an order under section 498 or section 499 may be made after notice in writing to the defendant at any time after service of the summons.

An application by the defendant for a like order may be made after notice in writing to the plaintiff, and at any time after the applicant has appeared.

When party may be put in immediate possession of land, the subject of suit.

501. When land paying revenue to Government, or a tenure liable to sale, is the subject of a suit, if the party in possession of such land or tenure neglects to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure;

and the Court in its decree may award against the defaulter the amount so paid, with interest thereupon at such rate as the Court thinks fit, or may charge the amount so paid, with interest thereupon at such rate as the Court orders, in any adjustment of accounts which may be directed in the decree passed in the suit.

Deposit of money, &c., in Court.

502. When the subject-matter of a suit is money or some other thing capable of delivery, and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in court or delivered to such last-named party, with or without security, subject to the further direction of the Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS.

Power of Court to appoint receivers.

503. Whenever it appears to the Court to be necessary for the realization, preservation or better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may by order

(*a*) appoint a receiver of such property,

and, if need be,

(*b*) remove the person in whose possession or custody the property may be from the possession or custody thereof;

(*c*) commit the same to the custody or management of such receiver; and

(*d*) grant to such receiver such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the Court thinks fit.

Receiver's liabilities.

Every receiver so appointed shall

(*e*) give such security (if any) as the Court thinks fit duly to account for what he shall receive in respect of the property,

(*f*) pass his accounts at such periods and in such form as the Court directs,

(*g*) pay the balance due from him thereon as the Court directs, and

(*h*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Nothing in this section authorizes the Court to remove from the possession or custody of property under attachment any person whom the parties to the suit, or some or one of them, have or has not a present right so to remove.

When Collector may be appointed receiver.

504. If the property be land paying revenue to Government, or land of which the revenue has been assigned or redeemed, and the Court considers that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver of such property.

Courts empowered under this chapter.

505. The powers conferred by this chapter shall be exercised only by High Courts and District Courts. Provided that whenever the Judge of a Court subordinate to a District Court considers it expedient that a receiver should be appointed in any suit before him, he shall nominate such person as he considers fit for such appointment, and submit such person's name, with the grounds for the nomination, to the District Court, and the District Court shall authorize such Judge to appoint the person so nominated or pass such other order as it thinks fit.

PART V.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.

REFERENCE TO ARBITRATION.

Parties to suit may apply for order of reference.

506. If all the parties to a suit desire that any matter in difference between them in the suit be referred to arbitration, they may, at any time before judgment is pronounced, apply, in person or by their respective pleaders specially authorized in writing in this behalf, to the Court for an order of reference.

Every such application shall be in writing and shall state the particular matter sought to be referred.

Nomination of arbitrator.

507. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

When Court to nominate arbitrator.

If the parties cannot agree with respect to such nomination, or if the person whom they nominate refuses to accept the arbitration and the parties desire that the nomination shall be made by the Court, the Court shall nominate the arbitrator.

Order of reference.

508. The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award, and specify such time in the order.

When once a matter is referred to arbitration, the Court shall not deal with it in the same suit, except as hereinafter provided.

509. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators,

When reference is to two or more, order to provide for difference of opinion.

(*a*) by the appointment of an umpire, or

(*b*) by declaring that the decision shall be with the majority if the major part of the arbitrators agree, or

(*c*) by empowering the arbitrators to appoint an umpire, or

(*d*) otherwise, as may be agreed between the parties; or, if they cannot agree, as the Court determines.

If an umpire is appointed, the Court shall fix such time as it thinks reasonable for the delivery of his award in case he is required to act.

510. If the arbitrator, or, where there are more arbitrators than one, any of the arbitrators, or the umpire, dies, or refuses, or neglects, or becomes incapable to act, or leaves British India under circumstances showing that he will probably not return at an early date, the Court may in its discretion either appoint a new arbitrator or umpire in the place of the person so dying, or refusing, or neglecting, or becoming incapable to act, or leaving British India, or make an order superseding the arbitration, and in such case shall proceed with the suit.

Death, incapacity, &c., of arbitrators or umpire.

511. Where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice has been served, or such further time as the Court may in each case allow, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

Appointment of umpire by Court.

512. Every arbitrator or umpire appointed under section 509, 510 or 511 shall have the like powers as if his name had been inserted in the order of reference.

Powers of arbitrator or umpire appointed under sections 509, 510, 511.

513. The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire to examine, as the Court may issue in suits tried before it.

Summoning witnesses.

Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpirer during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

Punishment for default, &c.

514. If from the want of the necessary evidence or information, or from any other cause, the arbitrators cannot complete the award within the period specified in the order, the Court may, if it think fit, either grant a further time, and from time to time enlarge the period for the delivery of the award, or make an order superseding the arbitration, and in such case shall proceed with the suit.

Extension of time for making award.

515. When an umpire has been appointed, he may enter on the reference in the place of the arbitrators

When umpire may arbitrate in lieu of arbitrators.

(*a*) if they have allowed the appointed time to expire without making an award, or

(*b*) when they have delivered to the Court or to the umpire a notice in writing, stating that they cannot agree.

516. When an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

Award to be signed and filed.

517. Upon any reference by an order of Court, the arbitrators or umpire may, with the consent of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court; and the Court shall deliver its opinion thereon; and such opinion shall be added to and form part of the award.

Arbitrators or umpire may state special case.

518. The Court may, by order, modify or correct an award,

Court may, on application, modify or correct award in certain cases.

(*a*) where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred, or

(*b*) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision.

519. The Court may also make such order as it thinks fit respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

Order as to costs of arbitration.

520. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit,

When award or matter referred to arbitration may be remitted.

(*a*) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration;

(*b*) where the award is so indefinite as to be incapable of execution;

(*c*) where an objection to the legality of the award is apparent upon the face of it,

521. An award remitted under section 520 becomes void on the refusal of the arbitrators or umpire to reconsider it. But no award shall be set aside except on one of the following grounds (namely)—

Grounds for setting aside award.

(*a*) corruption or misconduct of the arbitrator or umpire;

(*b*) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;

(*c*) the award having been made after the issue of an order by the Court superseding the arbitration and restoring the suit;

and no award shall be valid unless made within the period allowed by the Court.

522. If the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application has been made to set aside the award, or if the Court has refused such application,

Judgment to be according to award.

the Court shall, after the time for making such application has expired, proceed to give judgment according to the award,

or, if the award has been submitted to it in the form of a special case, according to its own opinion on such case:

Upon the judgment so given a decree shall follow, and shall be enforced in manner provided in this Code for the execution of decrees. No appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award.

Decree to follow.

523. When any persons agree in writing that any difference between them shall be referred to the arbitration of any person named in the agreement or to be appointed by any Court having jurisdiction in the matter to which the agreement relates, the parties thereto, or any of them, may apply that the agreement be filed in Court.

Agreement to refer to arbitration may be filed in Court.

The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

Application to be numbered and registered.

On such application being made, the Court shall direct notice thereof to be given to any of the parties to the agreement other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

Notice to show cause against filing it.

If no sufficient cause be shown, the Court may cause the agreement to be filed, and shall make an order of reference thereon, and may also nominate the arbitrator when he is not named therein and the parties cannot agree as to the nomination.

524. The foregoing provisions of this chapter, so far as they are consistent with any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court under section 523, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Provisions of this chapter applicable to proceedings under order of reference.

525. When any matter has been referred to arbitration without the intervention of a Court of Justice, and an award has been made thereon, any person interested in the award may apply to the Court of the lowest grade having jurisdiction over the matter to which the award relates, that the award be filed in Court.

Filing award in matter referred to arbitration without intervention of Court.

The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

Application to be numbered and registered.

The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

Notice to parties to arbitration.

526. If no ground such as is mentioned or referred to in section 520 or 521, be shown against the award, the Court shall order it to be filed, and such award shall then take effect as an award made under the provisions of this chapter.

Filing and enforcement of such award.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Parties claiming to be interested in the decision of any question of fact or law, may enter into an agreement in writing stating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,

Power to state case for Court's opinion.

(*a*) a sum of money fixed by the parties or to be determined by the Court, shall be paid by one of the parties to the other of them; or

(*b*) some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or

(*c*) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby.

528. If the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be

When value of subject-matter must be stated.

delivered, or to which the act specified has reference, shall be stated in the agreement.

Agreement to be filed and numbered as a suit.

529. The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested, as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Parties to be subject to Court's jurisdiction.

530. When the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of the case.

531. The case shall be set down for hearing as a suit instituted under chapter V, the provisions of which shall apply to such suit so far as the same are applicable.

If the Court is satisfied, after an examination of the parties, or taking such evidence as it thinks fit,

(*a*) that the agreement was duly executed by them, and

(*b*) that they have a *bonâ fide* interest in the question stated therein, and

(*c*) that the same is fit to be decided,

it shall proceed to pronounce judgment thereon, in the same way as in an ordinary suit, and upon the judgment so given a decree shall follow, and shall be enforced in the manner provided in this Code for the execution of decrees.

CHAPTER XXXIX.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

Institution of summary suits upon bills of exchange, &c.

532. In any Court to which this section applies all suits upon bills of exchange, hundís or promissory notes may, in case the plaintiff desires to proceed under this chapter, be instituted by presenting a plaint in the form prescribed by this Code; but the summons shall be in the form contained in the fourth schedule hereto annexed, No. 172, or in such other form as the High Court may from time to time prescribe.

In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter mentioned so to appear and defend;

and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

Payment into Court of sum mentioned in summons.

The defendant shall not be required to pay into Court the sum mentioned in the summons, or to give security therefor, unless the Court thinks his defence not to be *primâ facie* sustainable, or feels reasonable doubt as to its good faith.

Explanation.—This section is not confined to cases in which the bill, hundí or note sued upon, together with mere lapse of time, is sufficient to establish a *primâ facie* right to recover.

Defendant showing defence on merits to have leave to appear.

533. The Court shall, upon application by the defendant, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons or upon affidavits satisfactory to the Court, which disclose a defence or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as the Court thinks fit.

Power to set aside decree.

534. After decree, the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it seem reasonable to the Court so to do, and on such terms as the Court thinks fit.

Power to order bill to be deposited with officer of Court.

535. In any proceeding under this chapter the Court may order the bill, hundí or note on which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

Recovery of cost of noting non-acceptance of dishonoured bill.

536. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

Procedure in suits under this chapter.

537. Except as provided by sections 532 to 536 both inclusive, the procedure in suits under this chapter shall be the same as the procedure in suits instituted under chapter V.

Power to extend this chapter.

538. Sections 532 to 537 (both inclusive) apply only to—

(*a*) the High Courts of Judicature at Fort William, Madras and Bombay;

(*b*) the Court of the Recorder of Rangoon;

(*c*) the Courts of Small Causes in Calcutta, Madras and Bombay;

(*d*) the Court of the Judge of Karáchi; and

(*e*) any other Court having ordinary original civil jurisdiction to which the Local Government may, by notification in the official Gazette, apply them.

In case of such application the Local Government may direct by whom any of the powers and duties incident to the provisions so applied shall be exercised and performed, and make any rules which it thinks requisite for carrying into operation the provisions so applied.

Within one month after such notification has been published, such provisions shall apply accordingly, and the rules so made shall have the force of law.

The Local Government may from time to time alter or cancel any such notification.

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

When suit relating to public charities may be brought.

539. In case of any alleged breach of any express or constructive trust created for public charitable purposes, or whenever the direction of the Court is deemed necessary for the administration of any such trust, the Advocate General acting *ex-officio*, or two or more persons having a direct interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit in the High Court or the District Court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

(*a*) appointing new trustees of the charity:

(*b*) vesting any property in the trustees of the charity:

(*c*) declaring the proportions in which its objects are entitled:

(*d*) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged:

(*e*) settling a scheme for its management;

or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate General may (where there is no Advocate General) be exercised by the Government Advocate) or (where there is no Government Advocate) by such officer as the Local Government may appoint in this behalf.

PART VI.

OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

Appeal to lie from all original decrees, except when expressly prohibited.

540. Unless when otherwise expressly provided in this Code or by any other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

Form of appeal.

541. The appeal shall be made in the form of a memorandum in writing presented by the appellant, and shall be accompanied by a copy of the decree appealed against and (unless the appellate Court dispenses therewith) of the judgment on which it is founded.

Memorandum to be accompanied by copy of decree and judgment.

Such memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

Memorandum of appeal.

Appellant confined to grounds set out.

542. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant:

Provided that the Court shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

Rejection of memorandum or grounds of objection.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court, or be amended then and there.

When the Court rejects under this section any memorandum, it shall record the reasons for such rejection.

When a memorandum of appeal is amended under this section the Judge, or such officer as he appoints in this behalf, shall attest the amendment by his signature.

One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

544. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants as the case may be.

Of staying and executing Decrees under Appeal.

Execution of decree not stayed solely by reason of appeal.

545. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against the decree; but the Appellate Court may for sufficient cause order the execution to be stayed:

Stay of execution of appealable decree before time for appealing has expired.

If an application be made for stay of execution of an appealable decree before the expiry of the time allowed for appealing therefrom, the Court which passed the decree may for sufficient cause order the execution to be stayed:

Provided that no order shall be made under this section unless the Court making it is satisfied—

(*a*) that substantial loss may result to the party applying for stay of execution unless the order is made;

(*b*) that the application has been made without unreasonable delay; and

(*c*) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

Security required before making order to stay execution.

546. If an order is made for the execution of a decree against which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Appellate Court,

Security in case of order for execution of decree appealed against.

or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

And when an order has been passed for the sale of immoveable property in execution of a decree for money and an appeal is pending against such decree, the sale shall on the application of the judgment-debtor be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the Court which passed the decree thinks fit.

547. No such security as is mentioned in sections 545 and 546 shall be required from the Secretary of State for India in Council, or (when Government has undertaken the defence of the suit) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of presentation, and shall register the appeal in a book to be kept for the purpose.

Registry of memorandum of appeal.

Such book shall be called the Register of Appeals.

Register of appeals.

549. The Appellate Court may, at its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both :

Appellate Court may require appellant to give security for costs.

Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immoveable property within British India independent of the property (if any) to which the appeal relates.

When appellant resides out of British India.

If such security be not furnished within such time as the Court orders, the Court shall reject the appeal.

550. When the memorandum of appeal is registered, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made.

Appellate Court to give notice to Court whose decree is appealed against.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

Transmission of papers to Appellate Court.

Either party may apply in writing to the Court against whose decree the appeal is made, specifying any of such papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited accordingly.

Copies of exhibits in Court whose decree is appealed against.

551. The Appellate Court may, if it thinks fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the Court against whose decree the appeal is made, without sending notice of the appeal to such Court and without serving notice on the respondent or his pleader; but in such case the confirmation shall be notified to the same Court.

Power to confirm decision of lower Court without sending it notice.

552. The Appellate Court, unless where it confirms, under section 551, the decision of the lower Court, shall fix a day for hearing the appeal.

Day for hearing appeal.

Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

553. Notice of the day so fixed shall be stuck up in the appellate court-house, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided in chapter VI for the service on a defendant of a summons to appear and answer; and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice.

Publication and service of notice of day for hearing appeal.

Instead of sending the notice to the Court against whose decree the appeal is made, the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the rules above referred to.

Appellate Court may itself cause notice to be served.

554. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Contents of notice.

Procedure on Hearing.

555. On the day so fixed, or on any other day to which the hearing may be adjourned, the party having the right to begin shall be heard in support of or against the appeal, as the case may be. The other party shall then be heard, and the party having the right to begin shall then be entitled to reply.

Right to begin.

Explanation.—If the appeal is from the whole decree, or if there are cross-appeals, the party having the right to begin is the party who had the right to begin on the hearing in the Court whose decree is appealed from.

If the appeal is from only a portion of the decree, and there is no cross-appeal, the appellant has the right to begin.

556. If on the day so fixed, or any other day to which the hearing may be adjourned, the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

Dismissal of appeal for appellant's default.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

Hearing appeal *ex parte*.

557. If on the day so fixed, or any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed :

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

Provided that no such order shall be passed, although the notice has not been served upon the respondent, if on the day fixed for hearing the appeal the respondent appears in person or by a pleader, or by a duly authorized agent.

Proviso.

558. If an appeal be dismissed under section 556 or section 557, the appellant may apply to the Appellate Court for the re-admission of the appeal; and if it be proved that he was prevented by any sufficient cause from attending when the appeal was called on for hearing or from depositing the sum so required, the Court may re-admit the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-admission of appeal dismissed for default.

559. If it appear to the Court at the hearing that any person who was a party to the suit in the Court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court, and direct that such person be made a respondent.

Power to adjourn hearing, and direct persons appearing interested to be made respondents.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and if it be proved that the respondent was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-hearing on application of respondent against whom *ex parte* decree is made.

561. Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has given to the appellant or his pleader seven days' notice of such objection.

Upon hearing respondent may object to decree as if he had preferred separate appeal.

Such objection shall be in the form of a memorandum, and the provisions of section 541, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

Form of notice, and provisions applicable thereto.

562. If the Court against whose decree the appeal is made has disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties, and the decree upon such preliminary point is reversed in appeal, the Appellate Court may, if it thinks fit, by order remand the case, together with a copy of the order in appeal, to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the register and proceed to investigate the suit on the merits.

Remand of case by Appellate Court.

The Appellate Court may, if it think fit, direct what issue or issues shall be tried in any case so remanded.

563. When a case is remanded with directions to take any evidence so excluded the Court to which the case is remanded shall not take any other evidence in the case, except evidence tendered to contradict the evidence so taken.

When further evidence barred.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

Limit to remand.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall, after re-settling the issues, if necessary, finally determine the case notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

When evidence on record sufficient, Appellate Court shall determine case finally.

566. If the Court against whose decree the appeal is made has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and in such case shall direct such Court to take the additional evidence required,

When Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.

and such Court shall proceed to try such issue, and shall return to the Appellate Court its finding thereon together with the evidence.

Finding and evidence to be put on record.

Objections to finding.

567. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, present a memorandum of objections to the finding.

Determination of appeal.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

Production of additional evidence in Appellate Court.

568. The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if

(*a*) the Court against whose decree the appeal is made refused to admit evidence which ought to have been admitted, or,

(*b*) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause,

the Appellate Court may allow such evidence to be produced, or document to be received, or witness to be examined.

Whenever additional evidence is admitted by an Appellate Court, the Court shall record on its proceedings the reason for such admission.

Mode of taking additional evidence.

569. Whenever additional evidence is allowed to be received, the Appellate Court may either take such evidence, or direct the Court against whose decree the appeal is made, or any other subordinate Court, to take such evidence and to send it when taken to the Appellate Court.

Points to be defined and recorded.

570. In all cases where additional evidence is directed or allowed to be taken, the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Of the Judgment in Appeal.

Judgment when and where pronounced.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

Language of judgment.

572. The judgment shall be written in English; provided that if English is not the mother-tongue of the Judge, and he is not able to write an intelligible judgment in English, the judgment shall be written in his mother-tongue or in the language of the Court.

Translation of judgment.

573. When the language in which the judgment is written is not the language of the Court, the judgment shall, if any party so require, be translated into such language, and the translation, after it has been ascertained to be correct, shall be signed by the Judge or such officer as he appoints in this behalf.

Contents of judgment.

574. The judgment of the Appellate Court shall state—

(*a*) the points for determination;

(*b*) the decision thereupon;

(*c*) the reasons for the decision; and

(*d*) when the decree appealed against is reversed or varied, the relief to which the appellant is entitled,

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.

Date and signature.

Decision when appeal is heard by two or more Judges.

575. When the appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

If there be no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed:

Provided that if the Bench hearing the appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who have heard the appeal, including those who first heard it.

When there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

The High Court may from time to time make rules consistent with this Code to regulate references under this section.

Dissent to be recorded.

576. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

What judgment may direct.

577. The judgment may be for confirming, varying or reversing the decree of the Court against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be passed in appeal, the Appellate Court may pass a decree or order accordingly.

No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

Of the Decree in Appeal.

Contents of decree.

579. The decree of the Appellate Court shall bear date the day on which the judgment was pronounced.

The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify clearly the relief granted or other determination of the appeal.

The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid.

The decree shall be signed and dated by the Judge or Judges who passed it:

Judge dissenting from judgment need not sign decree.

Provided that where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

Copies of judgment and decree to be furnished to parties.

580. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Court and at their expense.

Certified copy of decree to be sent to Court whose decree is appealed against.

581. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the register of civil suits.

Appellate Court to have same powers as Courts of original jurisdiction.

582. The Appellate Court shall have the same powers in appeals under this chapter as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under chapter V.

The provisions hereinbefore contained shall apply to appeals under this chapter so far as such provisions are applicable.

Execution of decree of Appellate Court.

583. When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this chapter desires to obtain execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred; and such Court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed for the execution of decrees in suits.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECREES.

Second appeals to High Court.

584. Unless when otherwise provided in this Code or by any other law, from all decrees passed in appeal by any Court subordinate to a High Court, an appeal shall lie to the High Court on any of the following grounds, (namely)—

Grounds of second appeal.

(*a*) the decision being contrary to some specified law or usage having the force of law;

(*b*) the decision having failed to determine some material issue of law or usage having the force of law;

(*c*) a substantial error or defect in the procedure as prescribed by this Code or any other law, which may have produced error or defect in the decision of the case upon the merits.

Second appeal only on grounds mentioned in section 584.

585. No second appeal shall lie except on the grounds mentioned in section 584.

No second appeal in certain suits.

586. No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees.

Provisions as to second appeals

587. The provisions contained in chapter XLI shall apply as far as may be to appeals under this chapter, and to the execution of decrees passed in such appeals.

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

Orders appealable.

588. An appeal shall lie from the following orders under this Code and from no other such orders:—

(*a*) orders under section 20, staying proceedings in a suit,

(*b*) orders under section 32, striking out or adding the name of any person as plaintiff or defendant,

(*c*) orders under section 44, adding a cause of action,

(*d*) orders under section 47, excluding a cause of action,

(*e*) orders rejecting or returning plaints under section 53, clause (*d*), or section 54, clauses (*b*) and (*d*), or section 57, clauses (*b*) and (*c*),

(*f*) orders rejecting applications under section 102 (in cases open to appeal) for an order to set aside the dismissal of a suit,

(*g*) orders under section 120 where a party fails to appear in person,

(*h*) orders under section 168 for attachment of property,

(*i*) orders under section 176 where a party refuses to give evidence or produce a document called for by the Court,

(*j*) orders under section 244, as to questions relating to the execution of decrees, of the same nature with appealable orders made in the course of a suit,

(*k*) orders under section 258 compelling decree-holders to certify,

(*l*) orders under section 261 as to objections to draft-conveyances or draft-endorsements,

(*m*) orders under section 312 for confirming or setting aside a sale,

(*n*) orders in insolvency matters under section 351, 352, 353 or 357,

(*o*) orders rejecting applications under section 370 for dismissal of the suit,

(*p*) orders disallowing objections under section 372,

(*q*) orders as to interpleader-suits under section 473, 475 or 476,

(*r*) orders under section 479, 480, 481, 485, 492, 493, 496, 503,

(*s*) orders under section 514 superseding an arbitration,

(*t*) orders under section 518 modifying an award,

(*u*) orders under any of the provisions of this Code, imposing fines, or for the imprisonment of any person, except when such imprisonment is in execution of a decree,

(*v*) refusals under section 558 to re-admit, or under section 560 to re-hear, an appeal,

(*w*) orders under section 562 remanding a case.

The orders passed in appeals under this section shall be final.

589. An appeal from any order specified in section 588, clause (*n*), shall lie to the High Court.

Court which shall hear appeals.

When an appeal from any other order is allowed by this chapter, it shall lie to the Court to which an appeal would lie from the decree in the suit in relation to which such order was made or, when such order is passed by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

590. The procedure prescribed in chapter XLI shall, so far as may be, apply to appeals from orders under this Code, or under any special or local law in which a different procedure is not provided.

Procedur in appea s from orders

591. Except as provided in this chapter, no appeal shall lie from any order passed by any Court on the exercise of its original or appellate jurisdiction; but if any decree be appealed against, any error, defect or irregularity in any such order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

No appeal, before decree, from order passed in course of suit; but if decree appealed against, error or defect therein may be set forth.

CHAPTER XLIV.

OF PAUPER APPEALS.

592. Any person entitled under this Code or any other law to prefer an appeal, who is unable to pay the fee required for the petition of appeal, may, on presenting an application accompanied by a memorandum of appeal, be allowed to appeal as a pauper, subject to the rules contained in chapters XXVI, XLI, XLII and XLIII, in so far as those rules are applicable:

Who may appeal as pauper.

Provided that the Court shall reject the application unless upon a perusal thereof and of the judgment and decree against which the appeal is made, it sees reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

Procedure on application for admission of appeal.

593. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the Appellate Court:

Enquiry into pauperism.

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court against whose decree the appeal is made, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such enquiry.

Proviso.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

594. In this chapter, unless there be something repugnant in the subject or context, the expression 'decree' includes also judgment and order.

'Decree' defined.

595. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained—

When appeals lie to Queen in Council.

an appeal shall lie to Her Majesty in Council

(*a*) from any final decree passed on appeal by a High Court or other Court of final appellate jurisdiction,

(*b*) from any final decree passed by a High Court in the exercise of original civil jurisdiction, and

(*c*) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

596. In each of the cases mentioned in clauses (*a*) and (*b*) of section 595,

Value of subject-matter.

the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal must involve some substantial question of law.

597. Notwithstanding anything contained in section 595,

Bar of certain appeals.

no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being;

and no appeal shall lie to Her Majesty in Council from any decree which, under section 586, is final.

598. Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

Application to Court whose decree is complained of.

599. Such application must ordinarily be made within six months from the date of such decree.

Time within which application must be made.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

600. Every petition under section 598 must state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of section 596, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Certificate as to value or fitness.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

601. If such certificate be refused, the petition shall be dismissed:

Effect of refusal of certificate.

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable, within thirty days from the date of the order, to the High Court to which the former Court is subordinate.

602. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,

Security and deposit required on grant of certificate.

(*a*) give security for the costs of the respondent, and

(*b*) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except

(1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being;

(2) papers which the parties agree to exclude;

(3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included, and

(4) such other documents as the High Court may direct to be excluded:

and when the applicant prefers to print in India the copy of the record, except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

603. When such security has been completed and deposit made to the satisfaction of the Court, the Court may

Admission of appeal and procedure thereon.

(*a*) declare the appeal admitted, and

(*b*) give notice thereof to the respondent, and shall then

(*c*) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and

(*d*) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

604. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

Revocation of acceptance of security.

605. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

Power to order further security or payment.

or further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

606. If the appellant fail to comply with such order, the proceedings shall be stayed,

Effect of failure to comply with order.

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council, and in the meantime execution of the decree appealed against shall not be stayed.

607. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section 602.

Refund of balance of deposit.

608. Notwithstanding the admission of any appeal under this chapter, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs.

Powers of Court pending appeal.

But the Court may, if it think fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court—

(*a*) impound any moveable property in dispute or any part thereof, or

(*b*) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or

(*c*) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or

(*d*) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal as it thinks fit.

Increase of security found inadequate.

609. If at any time during the pendency of the appeal, the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security.

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

Procedure to enforce orders of Queen in Council.

610. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.

When any monies expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

Appeal against order relating to execution.

611. The orders made by the Court which enforces or executes the order of Her Majesty in Council relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

Power to make rules.

612. The High Court may, from time to time, make rules consistent with this Act to regulate—

(*a*) the service of notices under section 600,

(*b*) the grant or refusal of certificates under sections 601 and 602 by Courts of final appellate jurisdiction subordinate to the High Court,

(*c*) the amount and nature of the security required under sections 602, 605 and 609,

(*d*) the testing of such security,

(*e*) the estimate of the cost of transcribing the record,

(*f*) the preparation, examination and certifying of such transcript,

(*g*) the revision and authentication of translations,

(*h*) the preparation of indices to transcripts of records, and of lists of the papers not included therein,

(*i*) the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council,

and all other matters connected with the enforcement of this chapter.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

Legalization of existing rules.

613. All rules heretofore made and published by any High Court relating to appeal to Her Majesty in Council and in force immediately before the passing of this Act, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Recorder of Rangoon.

614. In sections 595 and 612, the expression 'High Court' shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

Construction of Bengal Regulation III of 1828, section 4, clause 5.

615. The rules and restrictions referred to in Bengal Regulation III of 1828, section IV, clause *fifth*, shall be deemed to be the rules and restrictions applicable to appeals under this Code from the decisions of the High Court of Judicature at Fort William in Bengal.

Saving of Her Majesty's pleasure.

616. Nothing herein contained shall be understood—

(*a*) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or

(*b*) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to Her Majesty in Council, or their conduct before the said Judicial Committee.

and of rules for conduct of business before Judicial Committee.

And nothing in this chapter applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, nor to appeals from orders and decrees of Prize Courts.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

Reference of question to High Court.

617. If before or on the hearing of a suit or appeal in which the decree is final, or if in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document which construction may affect the merits, arises, on which the Court trying the suit or appeal or executing the decree entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

Court may pass decree contingent upon opinion of High Court.

618. The Court may either stay the proceedings or proceed in the case, notwithstanding such reference, and may pass a decree or order contingent upon the opinion of the High Court on the point referred;

but no execution shall be issued, property sold, or person imprisoned in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon such reference.

Judgment of High Court to be transmitted, and case disposed of accordingly.

619. The High Court shall hear the parties to the case in which the reference is made, in person or by their respective pleaders, and shall decide the point so referred, and shall transmit a copy of its judgment under the signature of the Registrar, to the Court by which the reference was made, and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

Costs of reference to High Court.

620. Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the case.

Power to alter, &c., decrees of Court making reference.

621. When a case is referred to the High Court under this chapter, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed in the case out of which the reference arose, and make such order as it thinks fit.

Power to call for record of cases decided by Small Cause Courts, or, on appeal, by subordinate Courts.

622. The High Court may call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, and may pass such order in the case as the High Court thinks fit.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

Application for review of judgment.

623. Any person considering himself aggrieved—

(*a*) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred;

(*b*) by a decree or order from which no appeal is hereby allowed; or

(*c*) by a judgment on a reference from a Court of Small Causes;

and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the Court which passed the decree or made the order or to the Court, if any, to which the business of the former Court has been transferred.

A party who is not appealing from a decree may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except when the ground of such appeal is common to the applicant and the appellant, or when being a respondent, he can present to the Appellate Court the case on which he applies for the review.

To whom applications for review may be made.

624. Except upon the ground of the discovery of such new and important matter or evidence as aforesaid, or of some clerical error apparent on the face of the decree, no application for a review of judgment, other than that of a High Court, shall be made to any Judge other than the Judge who delivered it.

Form of applications for review.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

Application when rejected.

626. If it appear to the Court that there is not sufficient ground for a review, it shall reject the application.

If the Court be of opinion that the application for the review should be granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion:

Application when granted.

Proviso.

Provided that—

(*a*) no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for; and

(*b*) no such application shall be granted on the ground of discovery of new matter, or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him when the decree or order was passed, without strict proof of such allegation.

627. If the Judge or Judges, or any one of the Judges, who passed the decree or order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

Application for review in Court consisting of two or more Judges.

628. If the application for a review be heard by more than one Judge and the Court be equally divided, the application shall be rejected.

Application when rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. An order of the Court for rejecting the application shall be final, but whenever such application is admitted, the admission may be objected to on the ground that it was

Order of Court final.

(*a*) in contravention of the provisions of section 624,

(*b*) in contravention of the provisions of section 626, or

(*c*) after the expiration of the period of limitation prescribed therefor and without sufficient cause.

Such objection may be made at once by an appeal against the order granting the application, or may be taken in any appeal against the final decree or order made in the suit.

Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and if it be proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court may order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

No order shall be made under this section unless the applicant has served the opposite party with notice in writing of the latter application.

No application to review an order passed on review or on an application for a review shall be entertained.

630. When an application for a review is granted, a note thereof shall be made in the register and the Court may at once re-hear the case or make such order in regard to the re-hearing as it thinks fit.

Registry of application granted, and order for re-hearing.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This chapter applies only to High Courts which are or may hereafter be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*).

This part to apply only to certain High Courts.

632. Except as provided in this Chapter the provisions of this Code apply to such High Courts.

Application of Code to High Courts.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

High Court to record judgments according to its own rules.

634. Whenever a High Court considers it necessary that a decree made in the exercise of its ordinary original civil jurisdiction should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs;

Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.

and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

635. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its ordinary original civil jurisdiction or to examine witnesses, except when the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakíls and attorneys.

Attorneys not to address Court, except when authorized

636. Notices to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the ordinary or extraordinary original civil jurisdiction of the High Court, and of its matrimonial, testamentary and intestate jurisdictions, except summonses to defendants issued under section 65, writs of execution, and notices under section 553, may be served by the attorneys in the suit, or by persons employed by them, or by such other persons as the High Court by any rule or order from time to time directs.

Process of High Courts may be served by attorneys in suit.

637. Any non-judicial or quasi-judicial act which this Code requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to do such act.

Non-judicial acts may be done by Registrar.

The High Court may from time to time by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

638. The following portions of this Code shall not apply to the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, namely, sections 16 and 17, sections 54, clauses (*a*) and (*b*), 57, 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 192 (so far as relates to the manner of taking evidence), 198 to 206 (both inclusive), 261, and so much of section 409 as relates to the making of a memorandum,

Sections not applying to High Court in original civil jurisdiction.

and section 579 shall not apply to the High Court in the exercise of its appellate jurisdiction.

Nothing in this Code shall extend or apply to any High Court in the exercise of its jurisdiction as an Insolvent Court.

Code not to affect High Court in exercise of insolvent jurisdiction.

639. The High Court may from time to time frame forms for any proceeding in such Court, and may make rules as to the books, entries and accounts to be kept by its officers.

Power to frame forms.

PART X.

CHAPTER XLIX.

MISCELLANEOUS.

640. Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in court.

Exemption of certain women from personal appearance.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

641. The Local Government may, by notification in the official Gazette, exempt from personal appearance in court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption, and may, by like notification, withdraw such privilege.

Local Government may exempt certain persons from personal appearance.

The names and residences of the persons so exempted shall from time to time be forwarded to the High Court by the Local Government, and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court, subordinate to the High Court, shall be kept in such subordinate Court.

List of names of persons exempted to be kept in subordinate Court.

When any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

Costs of commission rendered necessary by claiming privilege.

642. No Judge, Magistrate or other judicial officer shall be liable to arrest under this Code while going to, presiding in, or returning from his Court.

Persons exempt from arrest.

And, except as hereinafter provided, the parties to a suit and their pleaders and recognized agents shall be exempt from arrest under this Code while going to or attending a Civil Court for the purpose of such suit and while returning from such Court. Witnesses acting in obedience to a summons shall be similarly exempt.

643. When in a case pending before any Court, there appears to the Court sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in section 193, 196, 199, 200, 205, 206, 207, 208, 209, 210, 463, 471, 474, 475, 476 or 477 of the Indian Penal Code, which may be made in the course of any other suit or proceeding or with respect to any document offered in evidence in the case, the Court may cause the person accused to be detained till the rising of the Court, and may then send him in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

Procedure in case of certain offences.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and may bind over any person to appear and give evidence before such Magistrate.

The Magistrate shall receive such charge and proceed with it according to law.

644. Subject to the power conferred on the High Court by section 639 and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the fourth schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

Use of forms in fourth schedule.

645. The language which, when this Code comes into force, is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until the Local Government otherwise orders;

Language of subordinate Courts.

but it shall be lawful for the Local Government from time to time to declare what language shall be the language of every such Court.

646. Whenever the Registrar of a Court of Small Causes has any doubt upon any question of law or usage having the force of law, or as to the construction of a document which construction may

Power of Registrars of Small Cause Courts to state cases.

affect the merits of the decision, he may state a case for the opinion of the Judge; and all the provisions herein contained relative to the stating of a case by the Judge shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

Miscellaneous proceedings.

647. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction other than suits and appeals.

Admission of affidavits as evidence.

The High Court may from time to time make rules to provide for the admission, in such proceedings, of affidavits as evidence of the matters to which such affidavits respectively relate; and such rules, on being published in the local official Gazette, shall have the force of law.

Procedure when person to be arrested or property to be attached is outside the District.

648. If any person to be arrested or any property to be attached under this Code, resides or is situate outside the District within which the Court issuing the warrant of arrest or making the order of attachment is situate, such Court shall send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate, a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment,

and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued.

Rules applicable to all civil process for arrest, sale or payment.

649. The rules contained in chapter XIX shall apply to the execution of any judicial process for the arrest of a person or the sale of property or payment of money, which may be desired or ordered by a Civil Court in any civil proceeding.

Application of rules as to witnesses.

650. The provisions of chapters XIV and XV relating to witnesses shall apply to all persons required to give evidence, or to produce documents in any proceeding under this Code.

Penalty for escaping from custody under Code.

651. Whoever offers any resistance or illegal obstruction to the lawful apprehension of himself under this Code, or under the warrant of any Court of Civil Judicature, or escapes or attempts to escape from any custody in which he is lawfully detained under this Code or under such warrant, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Power to make subsidiary rules of procedure.

652. The High Court may from time to time make rules consistent with this Code to regulate any matter connected with the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

THE FIRST SCHEDULE.

(*See section* 3).

A.—STATUTE REPEALED.

Year and chapter.	Title.	Extent of repeal.
29 Char. II. chap. 7 ...	An Act for the better observance of the Lord's day commonly called Sunday.	The whole.

B.—ACTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
IX of 1840 ...	For amending the law administered in Her Majesty's Courts of Justice with reference to Arbitrations, Damages, and interested Witnesses.	So much as has not been repealed.
XXIII of 1840 ...	For executing within the local limits of the jurisdiction of Her Majesty's Courts legal Process issued by authorities in the Mufassal.	So far as it relates to the execution of the process of Civil Courts.
VIII of 1841 ...	Interpleader	The whole.
XXVI of 1841 ...	Extending 3 & 4 Wm. IV, c. 42 ...	So much as has not been repealed.
XIV of 1848 ...	Commissions for taking affidavits ...	The whole.
XVII of 1852 ...	Special cases	The whole.
XXXIII of 1852 ...	Enforcement of judgments ...	The whole Act, except so far as it relates to the decrees of Military Courts of Requests.
VI of 1855 ...	Writs of execution	The whole.
XXXIV of 1855 ...	Execution of judgments	The whole.
VIII of 1859 ...	For simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.	So much as has not been repealed.
XXIII of 1861 ...	To amend Act VIII of 1859 ...	So much as has not been repealed.
XX of 1862 ...	To provide for the levy of Fees and Stamp-duties in the High Court, &c.	So much as has not been repealed.
XXIV of 1862 ...	To continue in force Act XX of 1862	So much as has not been repealed.
IX of 1863 ...	To amend the Code of Civil Procedure	The whole.

THE FIRST SCHEDULE.

ACTS REPEALED—*continued.*

Number and year.	Subject or title.	Extent of repeal.
XVIII of 1863 ...	To make provision for the speedy and efficient disposal of the business, &c.	So much as has not been repealed.
XXXII of 1863 ...	To continue in force Act XX of 1862 ...	So much as has not been repealed.
XI of 1865 ...	Mufassal Small Cause Courts Act ...	Sections 8, 9, 10, 11, para. 2, 22, 23, 24, 25, 26, 27, 28, 42 and 47, and in section 32 the words "in the manner prescribed in the twenty-second section of this Act" and "contained in the twenty-second, twenty-third, twenty-fourth and twenty-fifth sections of this Act."
XIV of 1865 ...	Central Provinces Courts Act ...	Sections 17 and 18.
XIX of 1865 ...	Panjáb Courts Act	Sections 13 and 17.
V of 1866 ...	To provide a summary procedure on Bills of Exchange, &c.	In the title, the words *'to provide a summary procedure on Bills of Exchange and'* The preamble down to and including the words 'Notes; and' In section 1, the definitions of 'High Court' and 'Local Government.' Sections two to eight (both inclusive). Section fourteen.
XXIV of 1866 ...	High Court, North-Western Provinces	So much as has not been repealed.
X of 1867 ...	References by Mufassal Small Cause Courts.	The whole.
XXVI of 1867 ...	To amend the law relating to Stamp Duties.	So much as has not been repealed.
XV of 1869 ...	Prisoners' Testimony Act ...	So much of sections 15 and 16 as relates to process issued by a Civil Court.
IX of 1873 ...	Panjáb Appeals Act, 1873 ...	Sections 9 and 10.
VI of 1874 ...	The Privy Council Appeals Act, 1874...	The whole.

C.—REGULATIONS REPEALED.

Bengal Regulation XX of 1810.	Cantonments	So much of section XIX as relates to civil process.
Madras Regulation XIV of 1816.	Vakíls	Section 27.

THE SECOND SCHEDULE.

(See section 5).

Chapters and Sections of this Code extending to Mufassal Courts of Small Causes.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.
CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).
CHAPTER III.—Of Parties and their Appearances, Applications and Acts.
CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule *a*.
CHAPTER V.—Of the Institution of Suits.
CHAPTER VI.—Of the Issue and Service of Summons, except section 77.
CHAPTER VII.—Of the Appearance of the Parties and consequence of Non-appearance.
CHAPTER VIII.—Section 111, Set-off.
CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.
CHAPTER X.—Of Discovery and the Admission, &c., of Documents.
CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.
CHAPTER XIII.—Of Adjournments.
CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.
CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).
CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.
CHAPTER XVIII.—Sections 220, 221 and 222, of Costs.
CHAPTER XIX.—Of the Execution of Decrees, sections 230 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 280 (both inclusive), 283, 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).
CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
CHAPTER XXIII.—Of Payment into Court.
CHAPTER XXIV.—Of requiring Security for Costs.
CHAPTER XXV.—Of Commissions.
CHAPTER XXVI.—Suits by Paupers.
CHAPTER XXVII.—Suits by and against Government or Government Servants.
CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except the first paragraph of section 433.
CHAPTER XXIX.—Suits by and against Corporations and Companies.
CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.
CHAPTER XXXII.—Suits by and against Military Men.
CHAPTER XXXIII.—Interpleader.
CHAPTER XXXIV.—Of Arrest and Attachment before Judgment.
CHAPTER XXXVII.—Reference to Arbitration, sections 506 to 522 (both inclusive).
CHAPTER XXXVIII.—Of proceedings on Agreement of Parties.
CHAPTER XLVI.—Reference to and Revision by High Court.
CHAPTER XLVII.—Of Review of judgment.
CHAPTER XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), section 648 (so far as relates to arrests), sections 649 to 652 (both inclusive).

THE THIRD SCHEDULE.

(See section 7).

Bombay Enactments.

Bombay Regulation XXIX, 1827.
" " VII, 1830.
" " I, 1831.
" " XVI, 1831.
Act XIX of 1835.
" XIII of 1842.

THE FOURTH SCHEDULE.

(*See section* 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PART I. PLAINTS.

No. 1.

FOR MONEY LENT.

IN THE COURT OF AT

Civil Suit No.

A. B. of

against

C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , he lent the defendant rupees repayable on demand [*or* on the day of].

2. That the defendant has not paid the same, except rupees paid on the day of 18 .

[*If the plaintiff claims exemption from any law of limitation, say:—*

3. The plaintiff was a minor [*or* insane] from the day of till the day of].

4. The plaintiff prays judgment for rupees, with interest at per cent. from the day of 18 .

[NOTE.—The object of stating when the debt is to be repaid is merely to fix a date for interest. If, therefore interest is not claimed, the statement may be omitted.]

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(*Title.*)

A. B., and *G. H.*, the above-named plaintiffs, state as follows:—

1. That on the day of 18 , at , the defendant received rupees [*or* a cheque on the Bank for Rs.] from one *E. F.* for the use of the plaintiffs.

2. That the defendant has not paid [*or* delivered] the same accordingly.

3. The plaintiffs pray judgment for rupees, with interest at per cent. from the day of 18 .

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at he and *E. F.*, since deceased, delivered to the defendant [*one thousand barrels of flour, five hundred maunds of rice, or as the case may be*] for sale upon commission.

2. That on the day of 18 [*or*, on some day unknown to the plaintiff, before the day of 18], the defendant sold the said merchandise for rupees.

3. That the commission and expenses of the defendant thereon, amount to rupees.

4. That on the day of 18 , the plaintiff demanded from the defendant the proceeds of the said merchandise.

5. That he has not paid the same.

[*Demand of judgment.*]

No. 4.

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at annas per tola of fine silver.

2. That the plaintiff procured the said bars to be assayed by one *E. F.*, who was paid by the defendant for such assay, and that the said *E. F.* declared each of the said bars to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant Rs. annas therefor.

3. That each of the said bars did contain only 1,200 tolas of fine silver.

4. That the defendant has not repaid the sum so overpaid.

[*Demand of judgment.*]

[NOTE.—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , at the request [*or* by the authority] of the defendant, the plaintiff paid to one *E. F.* rupees.

2. That, in consideration thereof, the defendant promised [*or* became bound] to pay the same to the plaintiff on demand [*or as the case may be.*]

3. That [on the day of 18 , the plaintiff demanded payment of the same from the defendant, but] he has not paid the same.

[*Demand of judgment.*]

[NOTE.—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.* of deceased sold and delivered to the defendant [one hundred barrels of flour, *or*, the goods mentioned in the schedule hereto annexed, *or*, sundry goods].

2. That the defendant promised to pay rupees for the said goods on delivery [*or* on the day of *some day before the plaint was filed*].

3. That he has not paid the same.

4. That the said *E. F.* in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5. That on the day of 187 the said *E. F.* died.

6. That on the day of probate of the said will was granted to the plaintiff by the Court of .

7. The plaintiff as executor as aforesaid [*Demand of judgment*].

[NOTE.—If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.]

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff sold and delivered to the defendant [*sundry articles of house furniture*] but no express agreement was made as to the price.

2. That the same were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

[NOTE.—The law implies a promise to pay so much as the goods are reasonably worth.]

No. 8.

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at plaintiff sold to the defendant [*one hundred barrels of flour*] and, at the request of the defendant, delivered the same to one *E. F.*

2. That the defendant promised to pay to the plaintiff rupees therefor.

3. That he has not paid the same.

[*Demand of judgment.*]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff furnished to [*Mary Jones*] the wife of *James Jones* deceased, at her request, sundry articles of [*food and clothing*], but no express agreement was made as to the price.

2. That the same were necessary for her.

3. That the same were reasonably worth rupees.

4. That the said *James Jones* refused to pay the same.

5. That the defendant is the executor of the last will of the said *James Jones*.

[*Demand of judgment.*]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold to *E. F.* of deceased [*all the crops then growing on his farm in*].

2. That the said *E. F.* promised to pay the plaintiff rupees for the same.

3. That he did not pay the same.

4. That the defendant is administrator of the estate of the said *E. F.*

[*Demand of judgment.*]

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at sold to the defendant [*all the fruit growing in his orchard in* , *E. F.* of], but no express agreement was made as to the price.

2. That the same was reasonably worth rupees.

3. That the defendant has not paid the same.

4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the plaintiff committee of his estate with the usual powers for the management thereof.

5. The plaintiff as committee as aforesaid [*Demand of judgment.*]

[NOTE.—When the lunatic's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 4 and 5 substitute the following:—]

4. That on the day of the Civil Court of duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs and appointed the plaintiff Manager of his estate.

5. The plaintiff as Manager as aforesaid [*Demand of judgment.*]

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , *E. F.* of agreed with the plaintiff that the plaintiff should make for him [*six tables and fifty chairs*], and that the said *E. F.* should pay for the same upon delivery thereof rupees.

2. That the plaintiff made the said goods, and on the day of 18 offered to deliver the same to the said *E. F.*, and has ever since been ready and willing so to do.

3. That the said *E. F.* has not accepted the said goods or paid for the same.

4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the defendant committee of his estate.

5. The plaintiff prays judgment for rupees with interest from the day of , at the rate of per cent. per annum, to be paid out of the estate of the said *E. F.* in the hands of the defendant.

No. 13.

FOR DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff put up at auction sundry [*articles of merchandise*], subject to the condition that all goods not paid for and removed by the purchaser thereof, within [*ten days*] after the sale, should be re-sold by auction on his account of which condition the defendant had notice.

2. That the defendant purchased [*one crate of crockery*] at the said auction at the price of rupees.

3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for [*ten days*] thereafter, of which the defendant had notice.

4. That the defendant did not take away the said goods purchased by him, nor pay therefor, within [*ten days*] after the sale, nor afterwards.

5. That on the day of 18 , at , the plaintiff re-sold the said [*crate of crockery*], on account of the defendant, by public auction, for rupees.

6. That the expenses attendant upon such re-sale amounted to rupees.

7. That the defendant has not paid the deficiency thus arising, amounting to rupees.

[*Demand of judgment.*]

NOTE to § 4. Unless the seller agreed to deliver, the purchaser must fetch the goods. See Act IX of 1872, sec. 93.]

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of *or*, a farm known as , in *or*, a piece of land lying, *&c.*]

2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, *or* farm, *or* land].

3. That he has not paid the same.

[*Demand of judgment.*]

NOTE.—Where there has been no actual conveyance, say, in § 1, "sold to the defendant the house, &c., and placed him in possession of the same."]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVEABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No. in the town of , *or* one hundred bighás of land in , bounded by the East Indian railroad, and by other lands of the plaintiff] for rupees.

2. That on the day of 18 , at , the plaintiff tendered [*or*, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.

3. That the defendant has not paid the said sum.

[*Demand of judgment.*]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].

2. That from the [said day] until the day of 18 , the plaintiff served the defendant as his clerk].

3. That the defendant has not paid the said salary.

[*Demand of judgment.*]

No. 17.

FOR SERVICES AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That between the day of 18 , and the day of 18 , at , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.

2. That the said services were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at [furnished the paper for and printed one thousand copies of a book called] for the defendant, at his request [and delivered the same to him].

2. That the defendant promised to pay rupees therefor.

3. That he has not paid the same.

[*Demand of judgment.*]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff built a house [known as No. , in], and furnished the materials therefor, for the defendant, at his request; but no express agreement was made as to the price to be paid for such work and materials.

2. That the said work and materials were reasonably worth rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 20.

FOR RENT RESERVED IN A LEASE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into a covenant with the plaintiff, under their hands, a copy of which is hereto annexed.

[*Or state the substance of the agreement.*]

2. That the defendant has not paid the rent of the [month] ending on the day of 18 , amounting to rupees.

[*Demand of judgment.*]

Another Form.

1. That the plaintiff let to the defendant a house No. 27 Chowringhee for seven years to hold from the day of 187 at rupees a year, payable quarterly.

2. That of such rent quarters are due and unpaid.

[*Demand of judgment.*]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant hired from the plaintiff [the house No. , street], at the rent of rupees, payable on the first days of .

2. That the defendant occupied the said premises from the day of 18 to the day of 18 .

3. That the defendant has not paid rupees, being the part of said rent due on the first day of 18 .

[*Demand of judgment.*]

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(*Title.*)

A. B., the above-named plaintiff, executor of the will of *X. Y.*, deceased, states as follows:—

1. That the defendant occupied the [house No , street], by permission of the said *X. Y.*, from the day of 18 , until the day of 18 and no agreement was made as to payment for the use of the said premises.

2. That the use of the said premises for the said period was reasonably worth rupees.

3. That the defendant has not paid the same.

4. The plaintiff as such executor as aforesaid prays judgment for rupees.

No. 23.

FOR BOARD AND LODGING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That from the day of 18 , until the day of 18 , the defendant occupied certain rooms in the house [No. , street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessaries.

2. That in consideration thereof, the defendant promised to pay, [*or* that no agreement was made as to payment for such meat, drink, attendance or necessaries, but the same were reasonably worth] the sum of rupees.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 24.

FOR FREIGHT OF GOODS.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff transported in [his barge, *or otherwise*] [one thousand barrels of flour, *or* sundry goods], from to , at the request of the defendant.

2. That the defendant promised to pay the plaintiff the sum of [one rupee per barrel] as freight thereon. [*Or*, that no agreement was made as to payment for such transportation, but that such transportation was reasonably worth rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 25.

FOR PASSAGE-MONEY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff conveyed the defendant [in his ship, called the] from to at his request.

2. That the defendant promised to pay the plaintiff rupees therefor. [*or* that no agreement was made as to the price of the said passage; but that the said passage was reasonably worth rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 26.

ON AN AWARD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators [*or*, entered into an agreement, a copy of which is hereto annexed.]

2. That on the day of 18 , at , the said arbitrators awarded that the defendant should [pay the plaintiff rupees.]

3. That the defendant has not paid the same.

[*Demand of judgment.*]

[NOTE.—This will apply where the agreement to refer is not filed in Court.]

No. 27.

ON A FOREIGN JUDGMENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , in the State [*or* Kingdom] of , the Court of that State [*or* Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.

2. That the defendant has not paid the same.

[*Demand of judgment.*]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.

2. That afterwards, on the day of 187 , the sum of rupees for of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[*Demand of judgment.*]

No. 29.

PAYEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of , 18 , at , the defendant by his promissory note now overdue, promised to pay to the plaintiff rupees [days] after date.

2. That he has not paid the same [except rupees, paid on the day of 18].

[*Demand of judgment.*]

[NOTE.—*Where the note is payable after notice, for paras.* 1 *and* 2 *substitute*—]

1. That on the day of at the defendant by his promissory note promised to pay to the plaintiff rupees months after notice.

2. That notice was afterwards given by the plaintiff to the defendant to pay the same months after the said notice.

3. That the said time for payment has elapsed, but the defendant has not paid the same.

[*Where the note is payable at a particular place, say*—]

1.—That on the day of 187 at the defendant by his promissory note now overdue promised to pay to the plaintiff [at Messrs. *A. and Co.*, Madras] rupees months after date.

2.—That the said note was duly presented for payment [at Messrs. *A. and Co.*] aforesaid, but has not been paid.

Written statement of the Defendant.

In the Court, &c.

C. D., the above-named defendant, states as follows:—

1. The defendant made the note sued upon under the following circumstances: The plaintiff and defendant had for some years been in partnership as indigo manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, that the defendant should take over the whole of the partnership assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.

2. The plaintiff thereupon undertook to examine the partnership books and enquire into the state of the partnership assets and liabilities; and he did accordingly examine the said books and make the said enquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact was that the assets of the firm were less than Rs. 50,000 and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the second para. of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

No. 30.

FIRST INDORSEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his promissory note, now overdue, promised to pay to the order of *E. F.* [*or* to *E. F.* or order] rupees [days after date].

2. That the said *E. F.* indorsed the same to the plaintiff,

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. [*As in the preceding form.*]

2. That the same was, by the indorsement of the said *E. F.* and of *G. H.* and *I. J.* [*or* and others] transferred to the plaintiff.

[*Demand of judgment.*]

No. 32.

FIRST INDORSEE AGAINST FIRST INDORSER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *E. F.*, on the day of 18 , at , by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.

2. That the defendant indorsed the same to the plaintiff.

3. That on the day of 18 the same was duly presented for payment, but was not paid.

[*Or state facts excusing want of presentment.*]

4. That the defendant had notice thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one *E. F.* a promissory note, now overdue, made [*or* purporting to have been made] by one *G. H.*, on the day of 18 , at , to the order of the defendant, for the sum of rupees [payable days after date].

2. That the same was by the indorsement of the said *E. F.*, [and others] transferred to the plaintiff. [*Or*, that the said *E. F.* indorsed the same to the plaintiff.]

3, 4 *and* 5. [*Same as* 3, 4 *and* 5 *of the preceding form.*]

[*Demand of judgment.*]

No. 34.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to him a promissory note, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant.

2, 3 *and* 4. [*As in No.* 33.]

[*Demand of judgment.*]

No. 35.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(*Title*).

A. B., the above-named plaintiff, states as follows:—

1. That a promissory note, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , to the order of one *G. H.*, for the sum of rupees [payable days after date], and indorsed by the said *G. H.* to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.

2, 3 *and* 4. [*As in No* 33.]

[*Demand of judgment.*]

No. 36.

SUBSEQUENT INDORSEE AGAINST MAKER, FIRST AND SECOND INDORSER.

IN THE COURT OF AT

Civil Suit No.

A. B. of
against
C. D. of
E. F. of
and
G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, *C. D.*, by his promissory note, now overdue, promised to pay to the order of the defendant, *E. F.*, rupees [months after date].

2. That the said *E. F.* indorsed the same to the defendant, *G. H.*, who indorsed it to the plaintiff.

3. That on the day of 18 , the same was presented [*or state facts excusing want of presentment*] to the said *C. D.* for payment, but was not paid.

4. That the said *E. F.* and *G. H.* had notice thereof.

5. That they have not paid the same.

[*Demand of judgment.*]

No. 37.

DRAWER AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees [days after date, *or* sight thereof].

2. That the defendant accepted the said bill. [*If the bill is payable at a certain time after sight, the date of acceptance should be stated, otherwise it is not necessary.*]

3. That he has not paid the same.

4. That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

[*Demand of judgment.*]

[NOTE.—Where the bill is payable to a third party, for paras. 1, 2, 3, say—]

1. That on &c., at &c., by his bill of exchange, now overdue, directed to the defendant the plaintiff required the defendant to pay to *E. F.* or order rupees months after date.
2. That the plaintiff delivered the said bill to the said *E. F.* on
3. That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

No. 38.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the plaintiff rupees after sight thereof.
2. That he has not paid the same.

[*Demand of judgment.*]

No. 39.

FIRST INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the order of one *G. H.* rupees after sight thereof.
2. That the said *G. H.* indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 40.

SUBSEQUENT INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [*As in the preceding form, to the end of art.* 1.]
2. That by the indorsement of the said *G. H.* [and others], the same was transferred to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his bill of exchange, directed to *E. F.*, required the said *E. F.* to pay to the plaintiff rupees [days after sight].
2. That on the day of 18 , the same was duly presented to the said *E. F.* for acceptance, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

[NOTE.—Notice of dishonour by non-acceptance must be given at once.]

No. 42.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at requiring one *G. H.* to pay to the order of the defendant rupees [days] after sight [*or* after date, *or* at sight] thereof, [and accepted by the said *G. H.* on the day of 18 .]
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 43.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one *E. F.*, a bill of exchange, now overdue, made [*or* purporting to have been made] by one *G. H.*, on the day of 18 , at requiring one *I. J.* to pay to the order of the defendant rupees days after sight thereof [*or otherwise*], and accepted by the said *I. J.* on the day of 18 . [*This clause may be omitted, if not according to the fact.*]
2. That the same was, by the indorsement of the said *E. F.* [and others], transferred to the plaintiff.
3. That on the day of 18 the same was presented to the said *I. J.* for payment, and was dishonoured.
4. That the defendant had due notice thereof.
5. That he has not paid the same.

[*Demand of judgment.*]

No. 44.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to plaintiff a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.* to pay to the order of *I. J.* rupees days after sight thereof [*or otherwise*], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 45.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a bill of exchange, now overdue, made [*or* purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.*, to pay to the order of one *I. J.* rupees days after sight thereof [*or otherwise*], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.
2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 46.

INDORSEE AGAINST DRAWER, ACCEPTOR AND INDORSER.

IN THE COURT OF AT

Civil Regular No.

A. B. of
against
C. D. of
E. F. of
G. H. of

A, B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, *C. D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.*, rupees [days after sight thereof].

2. That on the day of 18 , the said *E. F.* accepted the same.

3. That the said *G. H.* indorsed the same to the plaintiff.

4. That on the day of 18 , the same was presented to the said *E. F.* for payment, and was dishonoured.

5. That the other defendants had due notice thereof.

6. That they have not paid the same.

[*Demand of judgment.*]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bill of exchange drawn in Calcutta, required one *E. F.* to pay to the plaintiff in [London] pounds sterling, [sixty days] after sight thereof.

2. That on the day of 18 , the same was presented to the said *E. F.* for acceptance, and was dishonoured, and was thereupon duly protested.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

[5. That the value of pounds sterling, at the time of the service of notice of protest on the defendant, was rupees annas.]

Wherefore the plaintiff demands judgment against the defendant for rupees, with [ten per centum] compensation and interest from the day of 18

No. 48.

PAYEE AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. F.*, by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff rupees after date [*or* days after sight] thereof.

2. That on the day of 18 , the defendant accepted the said bill.

3. That he has not paid the same.

[*Demand of judgment.*]

[NOTE.—This form omits to state the delivery of the bill to the plaintiff or his title to sue. See *Churchill v Gardner*, 7 T. R. 596.]

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*, had an interest in] the ship at the time of its loss, as hereafter mentioned.

2. That on the day of 18 , at , the defendants, in consideration of rupees to them paid [*or*, which the plaintiff then promised to pay], executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed; [*or*, whereby they promised to pay to the plaintiff, within days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during its next voyage from to , whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding rupees].

3. That the said vessel, while proceeding on the voyage mentioned in the said policy, was on the day of 18 , totally lost by the perils of the sea [*or, otherwise*].

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 18 , he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendants have not paid the said loss.

[*Demand of judgment.*]

No. 50.

ON CARGO, LOST BY FIRE:—VALUED POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*, had an interest in] [one hundred bales of cotton] on board the ship at the time of its loss as hereafter mentioned.

2. That on the day of 18 , at , the defendant, in consideration of rupees which the plaintiff then paid [*or*, promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed; [*or*, whereby it promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, of the said goods before their landing at ; *or*, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should exceed per centum of the whole value of the goods].

3. That on the day of 18 , at , while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire.

4 *and* 5. [*As in paragraphs* 5 *and* 6 *of the last preceding Form.*]

Demand of judgment.]

No. 51.

ON FREIGHT:—VALUED POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff had an interest in the freight to be earned by the ship [ ] on her voyage from to , at the time of her loss as hereafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.

2. That on the day of 18 , at , the defendant in consideration of rupees to it paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [*or state its tenor, as before*].

3. That the said vessel, while proceeding upon the voyage mentioned in the said policy, was, on the day of 18 , totally lost by [the perils of the sea].

4. That the plaintiff has not received any freight from the said vessel, nor did she earn any on the said voyage, by reason of her loss as aforesaid.

5 *and* 6. [*As in Form No.* 50.]

[*Demand of judgment.*]

No. 52.

FOR A LOSS BY GENERAL AVERAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or*. had an interest in] [one hundred bales of cotton] shipped on board a vessel called the *Y. Z.*, from to , at the time of the loss hereafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [*or state its tenor, as before.*]

3. That on the day of 18 , while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea, that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

4. That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of rupees.

5. That on the day of 18 , he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[*Demand of judgment.*]

No. 53.

FOR A PARTICULAR AVERAGE LOSS.

(*Title.*)

A. B., the above named plaintiff, states as follows:—

1 *and* 2. [*As in the preceding Form.*]

3. That on the day of 18 , while on the high seas, the sea-water broke into the said ship, and damaged the said [cotton] to the amount of rupees.

4 *and* 5. [*As in paragraphs* 5 *and* 6 *of the preceding Form.*]

[*Demand of judgment.*]

No. 54.

ON A FIRE INSURANCE POLICY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff [was the owner of, *or*] had an interest in a [dwelling-house, known as No. , street, in the city of ,] at the time of its destruction [*or*, injury] by fire as hereinafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [to it paid], the defendant executed to the plaintiff a policy of insurance on the said [premises], a copy of which is hereto annexed [*or state its tenor*].

3. That on the day of 18 , the said [dwelling-house] was totally destroyed [*or*, greatly damaged] by fire.

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 18 , he furnished the defendant with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[*Demand of judgment.*]

No. 55.

AGAINST SURETIES FOR PAYMENT OF RENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. F.* hired from the plaintiff, for the term of years, the [house No. street,], at the annual rent of rupees, payable [monthly].

2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said *E. F.*, to guarantee the punctual payment of the said rent.

3. That the rent aforesaid for the month of 18 , amounting to rupees, has not been paid.

[*If, by the terms of the agreement, notice is required to be given to the surety, add*:—]

4. That on the day of 18 , the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or* That on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of rupees then paid, and of the further sum of ten thousand rupees payable as hereafter mentioned, he would, on the day of 18 , at , execute to the plaintiff a sufficient conveyance of [the house No. street, in the city of free from all incumbrances; and the plaintiff agreed to pay ten thousand rupees for the same on delivery thereof]

2. That on the day of 18 , the plaintiff demanded the conveyance of the said property from the defendant and tendered rupees to the defendant [*or*, that all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.]

3. That the defendant has not executed any conveyance of the said property to the plaintiff [*or* That there is a mortgage upon the said property, made by to , for rupees, registered in the office of , on the day of 18 , and still unsatisfied, *or any other defect of title*].

4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

The plaintiff prays judgment for rupees compensation.

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or* that on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff, forty bighás of land in the village of , for rupees].

2. That on the day of 18 , at , the plaintiff being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [*or*, was ready and willing, and offered to convey the same to the defendant by a sufficient instrument,] on the payment by the defendant of the said sum.

3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That by an agreement dated the day of 187 , it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of rupees, upon the terms and conditions following (that is to say)—

(*a*) That the defendant should pay the plaintiff a deposit of rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the day of 187 , on which day the said purchase should be completed.

(*b*) That the plaintiff should deduce and make a good title to the said premises on or before the day of 187 , and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[*Demand of judgment.*]

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the day of 18 ,] and that the plaintiff should pay therefor rupees on delivery.

2. That on the [said] day, the plaintiff was ready and willing, and offered, to pay the defendant the said sum upon delivery of the said goods.

3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[*Demand of judgment.*]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, *or* in the capacity of foreman, *or as the case may be*], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services rupees [monthly].

2. That on the day of 18 , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.

3. That on the day of 18 , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[*Demand of judgment.*]

No 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. [*As in last preceding Form.*]

2. That on the day of 18 , at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.

3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[*Demand of judgment.*]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at [an annual] compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year.]

2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 18 offered so to do].

3. That the defendant [entered upon the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 18 , he] refused to serve the plaintiff as aforesaid.

[*Demand of judgment.*]

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(*Title.*)

A. B., the above named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed :

[*Or state the tenor of the contract.*]

[2. That the plaintiff duly performed all the conditions of the said agreement on his part.]

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[*Demand of judgment.*]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed :

[*Or state the tenor of these covenants.*]

2. That after the making of the said agreement the plaintiff received the said [*apprentice*] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 18 , the said [*apprentice*] wilfully absented himself from the service of the plaintiff, and continues so to do.

[*Demand of judgment.*]

* The form given in Act XIX of 1850 requires the seal of the father or guardian.

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement with the plaintiff and his father, *E. F.*, under their hands and seals, a copy of which is hereto annexed.

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not [instructed the plaintiff in the business of , *or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment.*]

[*Demand of judgment.*]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff employed one *E. F.* as a clerk.

2. That on the day of 18 , at , the defendant agreed with the plaintiff, that if the said *E. F.* should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

[*Or*, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of rupees, conditioned that if the said *E. F.* should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void, but not otherwise.]

[*Or*, 2. That at the same time and place, the defendant executed to the plaintiff a bond, a copy of which is annexed.]

3. That between the day of 18 and the day of 18 , the said *E. F.* received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[*Demand of judgment.*]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by an instrument in writing, let to the plaintiff [the house No. street,] for the term of years, covenanting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the day of during the said term, one *E. F.*, who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of *G. H.* and *I. J.* by such removal.]

[*Demand of judgment.*]

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him rupees therefor.

2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which would otherwise have accrued to him while the engine was under repair.

[*Demand of judgment.*]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(*Title.*)

A. B., the above named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, being partners in trade under the firm of *A. B.* and *C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. That the plaintiff duly performed all the conditions of the said agreement on his part.

3. That on the day of 18 [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at , upon a debt due from the said firm to the said *E. F.*, and on the day of 18] the plaintiff paid rupees [in satisfaction of the same].

4. That the defendant has not paid the same to the plaintiff.

[*Demand of judgment.*]

No. 70.

BY SHIP-OWNER AGAINST FREIGHT OR FOR NOT LOADING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

[*Or*, 1. That on , at , the plaintiff and defendant agreed by charter party that the defendant should deliver to the plaintiff's ship at , on the day of 18 , five hundred tons of merchandise, which she should carry to , and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage, if required, at rupees per day.]

2. That at the time fixed by the said agreement the plaintiff was ready and willing and offered to receive [the said merchandise, *or*, the merchandise mentioned in the said agreement] from the defendant.

3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant entered upon certain land of the plaintiff, known as [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[*Demand of judgment.*]

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant entered a dwelling-house of the plaintiff called , and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[*Demand of judgment.*]

No. 73.

FOR TRESPASS ON MOVEABLES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street [*or* seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, *or as the case may be*], and carried away the same and disposed of them to his own use:

[*or*, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.]

2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [*otherwise state the injury according to the facts*].

[*Demand of judgment.*]

No. 74.

FOR THE CONVERSION OF MOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff was in possession of certain goods described in the schedule hereto annexed [*or* of one thousand barrels of flour].

2. That on that day, at , the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[*Demand of judgment.*]

The Schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, in consideration of the payment to him of rupees [*or*, rupees per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour], and to deliver the same to the plaintiff on payment of the said sum.

2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].

3. That on the day of 18 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [*or*, the full amount of storage due thereon], but the defendant refused to deliver the same.

4. That the plaintiff was thereby prevented from selling the said goods to *E. F.*, and the same are lost to the plaintiff.

[*Demand of judgment.*]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.

3. That the said representations were false [*or*, *state the particular falsehoods*], and were then known by the defendant to be so.

4. That the defendant has not paid for the said goods. [*Or*, *if the goods were not delivered*] That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.

[*Demand of judgment.*]

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant represented to the plaintiff, that one *E. F.* was solvent and in good credit, and worth rupees over all his liabilities [*or*, that *E. F.* then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. That the plaintiff was thereby induced to sell to the said *E. F.* [rice] of the value of rupees [on month's credit].

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [*or*, to deceive and injure the plaintiff].

4. That the said *E. F.* [did not pay for the said goods at the expiration of the credit aforesaid, *or*,] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[*Demand of judgment.*]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called and situate in , and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.

2. That on the day of 18 , the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3. That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[*Demand of judgment.*]

No. 79.

FOR CARRYING ON A NOXIOUS MANUFACTURE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called situate in .

2. That ever since the day of 18 , the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.

3. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.

4. That by reason of the premises the plaintiff was unable to depasture the said lands with cattle and sheep, as he otherwise might have done, and was obliged to remove his cattle, sheep and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[*Demand of judgment.*]

No. 80.

FOR OBSTRUCTING A WAY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at the time hereafter mentioned was, possessed of [a house in the town of].

2. That he was accustomed to pass [with vehicles, *or*, on foot] along a certain way leading from his said house to [the highway].

3. That on the day of 18 , the defendant obstructed the said way, so that the plaintiff could not pass [with vehicles, *or*, on foot, *or*, in any manner] along the said way [and has ever since obstructed the same].

4. [*State special damage, if any.*]

[*Demand of judgment.*]

Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from to so as to obstruct it.

2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [*or*, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[*Demand of judgment.*]

No. 81.

FOR DIVERTING A WATER-COURSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream], known as the , in the village of district of .

2. That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3. That on the day of 18 , the defendant, by cutting the bank of the said stream, diverted the water thereof, so that less water ran into the plaintiff's mill.

4. That by reason thereof, the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[*Demand of judgment.*]

No. 82.

FOR OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, *&c.*, and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2. That on the day of the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by obstructing and diverting the said stream.

[*Demand of judgment.*]

No. 83.

FOR WASTE BY A LESSEE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant hired from him the [house No. street] for the term of

2. That the defendant occupied the same under such hiring.

3. That during the period of such occupation, the defendant greatly injured the premises [defaced the walls, tore up the floors, and broke down the doors; *or otherwise specify the injuries as far as possible*].

The plaintiff prays judgment for rupees compensation.

No. 84.

FOR ASSAULT AND BATTERY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant assaulted and beat him.

The plaintiff prays judgment for rupees compensation.

No. 85.

FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted and beat the plaintiff, until he became insensible.

2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay rupees for medical attendance, and has been ever since disabled [from using his right arm]. [*Or otherwise state the damage, as the case may be.*]

[*Demand of judgment.*]

No. 86.

FOR ASSAULT AND FALSE IMPRISONMENT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted the plaintiff and imprisoned him for days [*or* hours]; [*state special damage, if any, thus*:—]

2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment, [*or otherwise as the case may be*].

[*Demand of judgment.*]

No. 87.

FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendants were common carriers of passengers by railway between and .

2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3. That while he was such passenger, at [*or*, near the station of ; *or*, between the stations of and], a collision occurred on the said railway, caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., *and state the special damage, if any, as*], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as a salesman.

[*Demand of judgment.*]

[*Or thus*:—2. That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, *&c., as in* § 3.]

No. 88.

FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is a shoe-maker, carrying on business at
The defendant is a merchant of

2. On the [23rd May 1875], the plaintiff was walking eastward along Chowringhee, in the city of Calcutta, at about three o'clock in the afternoon. He was obliged to cross Harington street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of Harington Street into Chowringhee. The pole of the carriage struck the plaintiff, and knocked him down, and he was much trampled by the horses.

3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages.

(*Title.*)

Written Statement of Defendant.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. *E. F.* and *G. H.*] of Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said Messrs. *E. F.* and *G. H.*

2. The defendant does not admit that the said carriage was turned out of Harington Street either negligently, suddenly, or without warning, or at a rapid or dangerous pace.

3. The defendant says, that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.

4. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

FOR LIBEL; THE WORDS BEING LIBELLOUS IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant published in a newspaper, called the [*or*, in a letter addressed to *E. F.*], the following words concerning the plaintiff:—

[*Set forth the words used.*]

2. That the said publication was false and malicious.

[*Demand of judgment.*]

NOTE.—If the libel was in a language not the language of the Court, set out the libel *verbatim* in the foreign language in which it was published, and then proceed thus:—"Which said words, being translated into the language, have the meaning and effect following, and were so understood by the persons to whom they were so published, that is to say, [*here set out a literal translation of the libel in the language of the Court.*]

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff [is, and] was, on and before the day of 18 , a merchant, doing business in the city of

2. That on the day of 18 , at , the defendant published in a newspaper, called the [*or*, in a letter addressed to *E. F.*, *or otherwise show how published*], the following words concerning the plaintiff:—

["*A. B.*, of this city, has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address."]

3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].

4. That the said publication was false and malicious.

[*Demand of judgment.*]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously spoke, in the hearing of *E. F.* [*or*, sundry persons], the following words concerning the plaintiff: "He is a thief"].

2. That, in consequence of the said words, the plaintiff lost his situation as in the employ of

[*Demand of judgment.*]

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously said to one *E. F.* concerning the plaintiff: ["He is a young man of remarkably easy conscience"].

2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.

3. That, in consequence of the said words, [the said *E. F.* refused to employ the plaintiff as a clerk].

[*Demand of judgment.*]

No. 93.

FOR MALICIOUS PROSECUTION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant obtained a warrant of arrest from [a magistrate of the said city, *or, as the case may be,*] on a charge of , and the plaintiff was arrested thereon, and imprisoned for [days, *or,* hours, and gave bail in the sum of rupees to obtain his release

2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.

3. That on the day of 18 , the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.

4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; *or,* that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one *E. F.*, *or,* that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[*Demand of judgment.*]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That *X. Y.* was the absolute owner of [the estate, *or,* the share of the estate, called , situate in the District of , the Government revenue of which is rupees and the estimated value rupees *or,* of the house No. , street in the town of Calcutta, the estimated value of which is rupees].

2. That on the day of 18 , *Z* illegally dispossessed the said *X. Y.* of the said estate [*or* share *or* house].

3. That the said *X. Y.* has since died intestate, leaving the plaintiff the said *A. B.* his heir him surviving.

4. That the defendant withholds the possession of the estate [*or* share *or* house] from the plaintiff.

The plaintiff prays judgment:

(1) For the possession of the said premises;

(2) For rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows:—

1. On the day of , the plaintiff, by an instrument in writing let to the defendant a house and premises No. 52, Russell Street, in the for a term of five years from the day of , at the monthly rent of rupees 300.

2. By the said instrument the defendant covenanted to keep the said house and premises ingood and tenantable repair.

3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4. On the day of 187 a month's rent became due, and on the day of 187 another month's rent became due; on the day of 187 both had been in arrear for twenty-one days, and both are still due.

5. On the same day of 187 the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to re-instate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims:

(1) Possession of the said house and premises;
(2) Rupees for arrears of rent;
(3) Rupees compensation for the defendant's breach of his covenant to repair;
(4) Rupees for the occupation of the house and premises from the day of 187 to the day of recovering possession.

No. 95.

BY THE TENANT.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That one *E. F.* is the absolute owner of [a piece of land in the town of Calcutta, , bounded as follows:], the estimated value of which is rupees .

2. That on the day of 18 , the said *E. F.* let the said premises to the plaintiff for years, from

3. That the defendant withholds the possession thereof from the plaintiff.

[*Demand of judgment.*]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [*or* was possessed of] one hundred barrels of flour, the estimated value of which is rupees .

2. That on that day, at , the defendant took the same.

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [*or, state facts showing a right to the possession*] the goods mentioned in the schedule hereto annexed [*or describe the goods*], the estimated value of which is rupees .

2. That from that day until the commencement of this suit, the defendant has detained the same from the plaintiff.

3. That before the commencement of this suit, to wit, on the day of 18 , the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees, in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

The schedule.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1 That on the day of 18 , at , the defendant [*C. D.*], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell and deliver to the said *C. D.* [one hundred boxes of tea], the estimated value of which is rupees.

3. That the said representations were false, and were then known by the said *C. D.* to be so. [*Or*, That at the time of making the said representations, the said *C. D.* was insolvent, and knew himself to be so.]

4. That the said *C. D.* afterwards transferred the said goods to the defendant *E. F.*, without consideration [*or* who had notice of the falsity of the representation].

The plaintiff prays judgment:

(1) For the possession of the said goods, or for rupees, in case such possession cannot be had;

(2) For rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained [ten bighás].

2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3. That on the day of 18 , the plaintiff paid the defendant rupees as part of such purchase-money.

4. That the said piece of ground contained in fact only [five bighás].

The plaintiff prays judgment:

(1) For rupees, with interest from the day of 18 ;

(2) That the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is the absolute owner of [*describe the property*].

2. That the defendant is in possession of the same under a lease from the plaintiff.

3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment, that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[*Pecuniary compensation might also be prayed.*]

No. 101.

FOR ABATEMENT OF A NUISANCE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. , street, Calcutta].

2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].

3. That on the day of 18 , the defendant erected upon his said lot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].

4. That [the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].

The plaintiff prays judgment, that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

[*As in No.* 81.]

The Plaintiff prays judgment, that the defendant be restrained by injunction from diverting the water as aforesaid.

No. 103.

FOR RESTORATION OF MOVEABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather, which was executed by an eminent painter], and of which no duplicate exists [*or state any facts showing that the property is of a kind that cannot be replaced by money*].

2. That on the day of 18 , he deposited the same for safe-keeping with the defendant.

3. That on the day of 18 , he demanded the same from the defendant, and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff, and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the said [painting].

The plaintiff prays judgment:

(1) That the defendant be restrained by injunction from disposing of, injuring, or concealing the said [painting];

(2) That he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That before the date of the claims hereinafter mentioned, one *G. H.* deposited with the plaintiff [*describe the property*] for [safe keeping].

2. That the defendant, *C. D.*, claims the same [under an alleged assignment thereof to him from the said *G. H.*]

3. That the defendant, *E. F.*, also claims the same [under an order of the said *G. H.* transferring the same to him].

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

(1) That the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;

(2) That they be required to interplead together concerning their claims to the said property;

[(3) That some person be authorized to receive the said property pending such litigation];

(4) That upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. *E. F.*, late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [*here insert nature of debt and security, if any*].

2. The said *E. F.* made his Will, dated the day of and thereof appointed *C. D.* executor [*or*, devised his estate in trust, *&c.*, *or*, died intestate, *as the case may be*].

3. The said Will was proved by the said *C. D.* [*or*, letters of administration were granted, *&c.*].

4. The defendant has possessed himself of the moveable [and immoveable, *or*, the proceeds of the immoveable] property of the said *E. F.*, and has not paid the plaintiff his said debt.

5. The said *E. F.* died on or about the day of

6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said *E. F.*, deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEES.

(*Title.*)

[*Alter Form* 105 *thus*:—]

[*Omit paragraph* 1 *and commence paragraph* 2] *E. F.*, late of , duly made his last Will, dated the day of and thereof appointed *C. D.* executor, and by such Will bequeathed to the plaintiff [*here state the specific legacy*].

For paragraph 4, *substitute*—

The defendant is in possession of the moveable property of the said *E. F.*, and, amongst other things, of the said [*here name the subject of the specific bequest*].

For the commencement of paragraph 6 *substitute*—

The plaintiff prays that the defendant may be ordered to deliver to him the said [*here name the subject of the specific bequest*] or that, &c.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEES.

(*Title.*)

[*Alter Form* 105 *thus*:—].

[*Omit paragraph* 1 *and substitute for paragraph* 2] *E. F.*, late of , duly made his last Will, dated the day of , and thereof appointed *C. D.* executor, and by such Will bequeathed to the plaintiff a legacy of rupees

In paragraph 4, *substitute* "legacy" *for* "debt."

Another Form.

Between *E. F.* ... ... *Plaintiff.*

and

G. H. ... ... *Defendant.*

A. B., the above-named plaintiff, states as follows:—

1. *A. B.* of *K* in the duly made his last Will, dated the [first day of March 1873], whereby he appointed the defendant and *M. N.* [who died in the testator's life-time] executors thereof, and bequeathed his property, whether moveable or immoveable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immoveable property for the person who would be the testator's heir-at-law, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the [first day of July 1873], and his Will was proved by the defendant on the [fourth of October 1873]. The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immoveable property; the defendant entered into the receipt of the rents of the immoveable property and got in the moveable property; he has sold some part of the immoveable property.

The plaintiff claims—

(1) To have the moveable and immoveable property of *A. B.* administered in this Court, and for that purpose to have all proper directions given and accounts taken.

(2) Such further or other relief as the nature of the case may require.

Between *E. F.* ... ... *Plaintiff,*

and

G. H. ... ... *Defendant.*

Written Statement of Defendant.

1. *A. B's* Will contained a charge of debts; he died insolvent; he was entitled at his death to some immoveable property which the defendant sold, and which produced the nett sum of rupees and the testator had some moveable property which the defendant got in, and which produced the nett sum of rupees

2. The defendant applied the whole of the said sums and the sum of rupees which the defendant received from rents of the immoveable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the [tenth of January 1875], and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.

4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

IN THE COURT OF AT

Civil Regular No.

A. B. of ... *Plaintiff,*

against

C. D. of the beneficiary [*or*, one of the beneficiaries], ... *Defendant.*

A. B., the above-named plaintiff, states as follows:—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the day of made upon the marriage of the said *E. F.* and *G. H.* the father and mother of the defendant [*or*, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*].

2. The said *A. B.* has taken upon himself the burden of the said trust, and is in possession of [*or*, of the proceeds of] the moveable and immoveable property conveyed [*or* assigned] by the before-mentioned deed.

3. The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.

4. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, *or* of part of the said, immoveable property, *or* moveable, *or* the proceeds of the sale of, *or* of part of, the said moveable, property, *or* the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the Court may direct, or that the said *C. D.* may shew good cause to the contrary.

N. B.—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, *on the plaint by a legatee.*]

No. 109.

FORECLOSURE OR SALE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. By an instrument of mortgage bearing date on or about the day of 18 , a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed [*or* assigned] by the defendant to him the plaintiff, his heirs [*or* executors, administrators,] and assigns, for securing the principal sum of Rs. together with interest thereon after the rate of Rs. per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of Rs. for principal and interest on the said mortgage.

3. The plaintiff prays (*a*) that the Court will order the defendant to pay him the said sum of Rs. , with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the equity of redemption of the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (*b*) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (*c*) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (*d*) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

(*Title.*)

[*Alter Form* 109 *thus*:—]

Transpose parties and also the facts in paragraph 1.

or paragraph 2, *substitute*—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3, *substitute*—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey [*or* re-assign] the same to him upon payment of the said sum of Rs. and interest, with such costs (if any), as the Court may order upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance [*or* assignment], and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

No. 111.

SPECIFIC PERFORMANCE. (No. 1).

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. By an agreement dated the day of and signed by the above-named defendant, *C. D.*, he the said *C. D.* contracted to buy of [*or* sell to] him certain immoveable property, therein described and referred to, for the sum of Rs.

2. He has applied to the said *C. D.* specifically to perform the said agreement on his part, but he has not done so.

3. The said *A. B.* has been and still is ready and willing specifically to perform the agreement on his part, of which the said *C. D.* has had notice.

4. The plaintiff prays that the Court will order the said *A. B.* specifically to perform the said agreement, and to do all acts necessary to put the said *A. B.* in full possession of the said property [*or* to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[*N. B.—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs* 2 *and* 3, *and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled, such as that the plaintiff signed it by mistake, under distress, or by the fraud of the defendant, and alter the prayer according* to the *relief sought.*]

No. 112.

SPECIFIC PERFORMANCE. (No. 2).

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant was absolutely entitled to certain immoveable property described in the agreement hereto annexed.

2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. That on the day of 18 , the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

4. That on the day of 18 , the plaintiff again demanded such conveyance. [*Or*, that the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:

(1) That the defendant execute to the plaintiff a sufficient conveyance of the said property [*following the terms of the agreement*]

(2) For rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. He and the said *C. D.*, the defendant, have been for the space of years [*or* months] last past carrying on business together at within the jurisdiction of this Court, under certain articles of partnership in writing, signed by them respectively, [*or*, under a certain deed sealed and executed by them respectively, *or*, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [*or* deed, *or* agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [*or* deed, *or* agreement], or that, if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by of

Pleader for the plaintiff, *or* by

[*N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution: but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.*]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, section 58.]

Money lent.	The plaintiff's claim is rs. for money lent [and interest].
Several demands.	The plaintiff's claim is rs., whereof rs. is for the price of goods sold, and rs. for money lent, and rs. for interest.
Rent.	The plaintiff's claim is rs. for arrears of rent.
Salary, &c.	The plaintiff's claim is rs. for arrears of salary as a clerk [*or, as the case may be*].
Interest.	The plaintiff's claim is rs. for interest upon money lent.
General average.	The plaintiff's claim is rs. for a general average contribution.
Freight, &c.	The plaintiff's claim is rs. for freight and demurrage.
Banker's balance.	The plaintiff's claim is rs. for money deposited with the defendant as a banker.
Fees, &c., as pleader.	The plaintiff's claim is rs. for fees for work done [and rs. money expended] as a pleader.
Commission.	The plaintiff's claim is rs. for commission earned as [*state character, as* auctioneer, cotton-broker, *&c.*].
Medical attendance, &c.	The plaintiff's claim is rs. for medical attendances.
Return of premium.	The plaintiff's claim is rs. for a return of premiums paid upon policies of insurance.
Warehouse rent.	The plaintiff's claim is rs. for the warehousing of goods.
Carriage of goods.	The plaintiff's claim is rs. for the carriage of goods by railway.
Use and occupation of houses.	The plaintiff's claim is rs. for the use and occupation of a house.
Hire of goods.	The plaintiff's claim is rs. for the hire of [furniture].
Work done.	The plaintiff's claim is rs. for work done as a [surveyor].
Board and lodging.	The plaintiff's claim is rs. for board and lodging.
Schooling.	The plaintiff's claim is rs. for the [board, lodging and] tuition of *X. Y.*
Money received.	The plaintiff's claim is rs. for money received by the defendant as pleader [*or* factor, *or* collector, *or*, *&c.*] of the plaintiff.
Fees of office.	The plaintiff's claim is rs. for fees received by the defendant under colour of the office of
Money overpaid.	The plaintiff's claim is rs. for a return of money overcharged for the carriage of goods by railway.
	The plaintiff's claim is rs. for a return of fees overcharged by the defendant as
Return of money by stake-holder.	The plaintiff's claim is rs. for a return of money deposited with the defendant as stake-holder.
Money won from stake-holder.	The plaintiff's claim is rs. for money entrusted to the defendant as stake-holder, and become payable to plaintiff.
Money entrusted to agent.	The plaintiff's claim is rs. for a return of money entrusted to the defendant as agent of the plaintiff.
Money obtained by fraud.	The plaintiff's claim is rs. for a return of money obtained from the plaintiff by fraud.
Money paid by mistake.	The plaintiff's claim is rs. for a return of money paid to the defendant by mistake.
Money paid for consideration which has failed.	The plaintiff's claim is rs. for a return of money paid to the defendant for [work to be done, *or* work left undone; *or*, a bill to be taken up, *or*, a bill not taken up, *or*, *&c.*]
	The plaintiff's claim is rs. for a return of money paid as a deposit upon shares to be allotted.
Money paid by surety for defendant.	The plaintiff's claim is rs. for money paid for the defendant as his surety.
Rent paid.	The plaintiff's claim is rs. for money paid for rent due by the defendant.
Money paid on accommodation-bill.	The plaintiff's claim is rs. upon a bill of exchange accepted [*or* indorsed] for the defendant's accommodation.
Contribution by surety.	The plaintiff's claim is rs. for a contribution in respect of money paid by the plaintiff as surety.
By co-debtor.	The plaintiff's claim is rs. for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff.
Money paid for calls.	The plaintiff's claim is rs. for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff.
Money payable under award.	The plaintiff's claim is rs. for money payable under an award.
Life-policy.	The plaintiff's claim is rs. upon a policy of insurance upon the life of *X. Y.*, deceased.
Money-bond.	The plaintiff's claim is rs. upon a bond to secure payment of rs. and interest.
Foreign judgment.	The plaintiff's claim is rs. upon a judgment of the Court in [the Empire of Russia].
Bills of exchange, &c.	The plaintiff's claim is rs. upon a cheque drawn by the defendant.
	The plaintiff's claim is rs. upon a bill of exchange accepted [*or* drawn, *or* indorsed] by the defendant.
	The plaintiff's claim is rs. upon a promissory note made [*or* indorsed] by the defendant.
Surety.	The plaintiff's claim is rs. against the defendant, *A. B.*, as acceptor, and against the defendant, *C. D.*, as drawer [*or* indorser] of a bill of exchange.
	The plaintiff's claim is rs. against the defendant as surety for the price of goods sold.

	The plaintiff's claim is rs. against the defendant, *A. B.*, as principal, and against the defendant, *C. D.*, as surety, for the price of goods sold [*or* for arrears of rent, *or* for money lent, *or* for money received by the defendant, *A. B.*, as traveller for the plaintiff, *or*, *&c.*].
Calls.	The plaintiff's claim is rs. for calls upon shares.

Indorsement for costs, &c.

[*Add to the above Forms*] and rs. for costs; and if the amount claimed be paid to the plaintiff or his pleader within days [*or, if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order*] from the service hereof, further proceedings will be stayed.

Damages and other claims.

Agent, &c.	The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.
	The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].
	The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.
	The plaintiff's claim is for damages for breach of duty as factor [*or*, *&c.*,] of the plaintiff [and rs. for money received as factor, *or &c.*]
Apprentices.	The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of *X. Y.* to the defendant [*or* plaintiff].
Arbitration.	The plaintiff's claim is for damages for non-compliance with the award of *X. Y.*
Assault, &c.	The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].
By husband and wife.	The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, *C. D.*
Against husband and wife.	The plaintiff's claim is for damages for assault by the defendant, *C. D.*
Pleader.	The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.
Bailment.	The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].
Pledge.	The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].
Hire.	The plaintiff's claim is for damages for negligence in the custody of furniture [*or*, a carriage] lent on hire, [and for wrongfully, *&c.*].
Banker.	The plaintiff's claim is for damages for wrongfully neglecting [*or* refusing] to pay the plaintiff's cheque.
Bill.	The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.
Bond.	The plaintiff's claim is upon a bond conditioned not to carry on the trade of a
Carrier.	The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.
	The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.
Charter-party.	The plaintiff's claim is for damages for breach of charter-party of ship [*Mary*].
Claim for return of goods; damages.	The plaintiff's claim is for return of household furniture, [*or*, *&c.*,] or their value, and for damages for detaining the same.
Damages for depriving of goods.	The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, *&c.*
Defamation.	The plaintiff's claim is for damages for libel.
	The plaintiff's claim is for damages for slander.
Wrongful distress.	The plaintiff's claim is for damages for improperly distraining.

[*This Form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular.*]

Ejectment.	The plaintiff's claim is to recover possession of a house, No. in Street, or of a farm called Blackacre, situate in the of in the of
To establish title and recover rents.	The plaintiff's claim is to establish his title to [*here describe property*] and to recover the rents thereof.

[*The two previous Forms may be combined*].

Fishery.	The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.
Fraud.	The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [*or* a business, *or* shares, *or*, *&c.*].
	The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of *A. B.*
Guarantee.	The plaintiff's claim is for damages for breach of a contract of guarantee for *A. B.*
	The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.
Insurance.	The plaintiff's claim is for a loss under a policy upon the ship [*Royal Charter*], and freight of cargo [*or* for return of premiums].

[*This Form shall be sufficient whether the loss claimed be total or partial.*]

Fire insurance	The plaintiff's claim is for a loss under a policy of fire insurance upon house and furniture.
	The plaintiff's claim is for damages for breach of a contract to insure a house.
Landlord and tenant.	The plaintiff's claim is for damages for breach of a contract to keep a house in repair.
	The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.
Medical man.	The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.

Mischievous animal. The plaintiff's claim is for damages for injury by the defendant's dog.

Negligence. The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.

The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants.

Act XIII of 1855. The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.

The plaintiff's claim is as executor of *A. B.* deceased, for damages for the death of the said *A. B.*, from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.

Promise of marriage. The plaintiff's claim is for damages for breach of promise of marriage.

Sale of goods. The plaintiff's claim is for damages for breach of contract to accept and pay for goods.

The plaintiff's claim is for damages for non-delivery [*or* short delivery, *or* defective quality, *or other breach of contract of sale*] of cotton [*or, &c.*].

Sale of goods. Sale of land. The plaintiff's claim is for damages for breach of warranty of a horse.

The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] land.

The plaintiff's claim is for damages for breach of a contract to let [*or* take] a house.

The plaintiff's claim is for damages for breach of a contract to sell [*or* purchase] the lease, with good-will, fixtures, and stock-in-trade of a public-house.

Trespass on land. The plaintiff's claim is for damages for breach of covenant for title [*or* for quiet enjoyment, *or*, *&c.*] in a conveyance of land.

The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [*or* cutting his grass, *or* felling his timber, *or* pulling down his fences, *or* removing his gate, *or* using his road or path, *or* crossing his field, *or* depositing sand there, *or* carrying away gravel from thence, *or* carrying away stones from his river].

Support. The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [*or* house, *or* mine].

Way. The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, *or* private, way].

Water-course, &c. The plaintiff's claim is for damages for wrongfully diverting [*or* obstructing, *or* polluting, *or* diverting water from] a water-course.

The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [*or* into the plaintiff's mine].

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

Pasture. The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.

[*This Form shall be sufficient whatever the nature of the right to pasture be.*]

Patent. The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.

Copy-right. The plaintiff's claim is for damages for the infringement of the plaintiff's patent.

Trade-mark. The plaintiff's claim is for damages for the infringement of the plaintiff's copy-right.

Work. The plaintiff's claim is for damages for wrongfully using [*or* imitating] the plaintiff's trade-mark.

The plaintiff's claim is for damages for breach of a contract to build a ship [*or* to repair a house, *&c.*].

Nuisance. The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, &c.

The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [*or, &c.*].

The plaintiff's claim is for damages from nuisance by noise from the defendant's works [*or* stables, *or*, *&c.*].

Injunction. [*Add to indorsement*]:—and for an injunction.

Mesne profits. [*Add to indorsement where claim is to land, or to establish title, or both*]:—and for mesne profits.

Arrears of rent. and for an account of rents or arrears of rent.

Breach of covenant. and for breach of covenant for [repairs].

1. *Creditor to administer Estate.*

The plaintiff's claim is as a creditor of *X.Y.*, of deceased, to have the moveable and immoveable property of the said *X.Y.* administered. The defendant, *C. D.*, is sued as the administrator of the said *X.Y.*, [and the defendants, *E. F.* and *G. H.*, as his coheirs at law.]

2. *Legatee to administer Estate.*

The plaintiff's claim is as a legatee under the will dated the day of 18 , of *X. Y.*, deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the executor of the said *X. Y.* [and the defendants, *E. F.* and *G. H.*, as his devisees].

3. *Partnership.*

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant [under articles of partnership dated the day of], and to have the affairs of the partnership wound up.

4. *By mortgagee.*

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the day of , made between [*parties*] [*or*, by deposit of title-deeds], and that the mortgage may be enforced by foreclosure or sale.

5. *By mortgagor.*

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated and made between [*parties*], and to redeem the property comprised therein.

6. *Raising Portions.*

The plaintiff's claim is that the sum of rs. which by an indenture of settlement, dated , was provided for the portions of the younger children of may be raised.

7. *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated and made between [*parties*] carried into execution.

8. *Cancellation, or Rectification.*

The plaintiff's claim is to have a deed dated and made between [*parties*] set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the day of for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at

No. 115.

PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will dated the day of of *C. W.* late of and to deceased, who died on the day of have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [*or, as the case may be*].

2. *By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased seeking to obtain the revocation of a probate granted in common form.*

The plaintiff claims to be executor of the last will dated the day of of *C.D.*, late of and to deceased, who died on the day of have the probate of a pretended will of the said deceased, dated the day of revoked. This summons is issued against you as the executor of the said pretended will [*or, as the case may be*].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of *C. D.*, late of deceased, who died on the day of dated the day of

The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.*

The plaintiff claims to be the brother and sole next-of-kin of *C.D.* of deceased, who died on the day of intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [*or, as the case may be*].

Indorsements of character of Parties.

The plaintiff's claim is as executor [*or* administrator] of *C.D.*, deceased, for, *&c.*

The plaintiff's claim is against the defendant, *A. B.*, as executor [*or*, *&c.*] of *C.D.*, deceased, for, *&c.*

The plaintiff's claim is against the defendant, *A.B.*, as executor of *X. Y.* deceased, and against the defendant, *C.D.*, in his personal capacity, for, *&c.*

By husband and wife executrix. The claim of the plaintiff, *C D.*, is as executrix of *X. Y.*, deceased, and the claim of the plaintiff, *A.B.*, as her husband, for

Trustees. The plaintiff's claim is as [*or*, the plaintiff's claim is against the defendant as] trustee under the will of *A.B.* [*or* under the settlement upon the marriage of *A.B.* and *X. Y.* his wife].

Public officer. The plaintiff's claim is as public officer of the Bank, for

The plaintiff's claim is against the defendant as public officer of the Bank,

for

The plaintiff's claim is against the defendant, *A.B.*, as principal, and against the defendant, *C.D.*, as public officer, of the Bank, as surety, for

Heir and devisee. The plaintiff's claim is against the defendant as heir-at-law of *A.B.*, deceased.

The plaintiff's claim is against the defendant, *C.D.*, as heir-at-law, and against the defendant, *E.F.*, as devisee, of lands under the will of *A.B.*

F.—MISCELLANEOUS.

No. 116.

Section 58 of the Code of Civil Procedure.

COURT of the of holden at

REGISTER OF CIVIL SUITS in the year 18 .

Date of presentation of plaint.	No. of Suit.	PLAINTIFF.			DEFENDANT.			CLAIM.			APPEARANCE.			JUDGMENT.			APPEAL.		EXECUTION.					RETURN OF EXECUTION.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or amount.	Date of Appeal.	Judgment in Appeal.	Date of application.	Date of Order.	Against whom.	For what, and amount if money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than payment of Arrest, and date of every Return.

No. 117.

SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure.

(*Title.*)

To

dwelling at

WHEREAS has instituted a suit against you for

you are hereby summoned to appear in this Court in person or by a duly authorized Pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the day of 18 , at o'clock in the forenoon, to answer the above-named plaintiff; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your Pleader , which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18 .

L. S.

Judge.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

NOTE.—*If written statements are required, say*—You are (*or such a party is, as the case may be*) required to put in a written statement by the day of

No. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure.

(*Title.*)

To

dwelling at

WHEREAS has instituted a suit against you for

you are hereby summoned to appear in this Court in person or by a duly authorized Pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the day of 18 , at o'clock in the forenoon, to answer the above-named plaintiff; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the issues will be settled in your absence; and you will bring with you, or send by your Pleader , which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18 .

L. S.

Judge.

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have subpœnas from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

NOTE.—*If written statements are required, say*—You are (*or such a party is, as the case may be*) required to put in a written statement by the day of

No. 119.

SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure.

NO. OF SUIT.

IN THE COURT OF AT

Plaintiff.
Defendant.

To (*Name, description and address.*)

WHEREAS [*here enter the name, description and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*If not specially required to appear in person, state*—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here*; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"]: and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

No. 120.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

The day of 18 .

WHEREAS it is stated in the plaint that , the defendant in the above suit is at present residing in , but that the right to sue accrued within the jurisdiction of this Court: it is ordered that a summons returnable on the day of 18 be forwarded for service on the said defendant, to the Court of with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

TO ACCOMPANY RETURN OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil suit No. of 18 .

The day of 18 .

A. B. of

against

C. D. of

Read proceeding from the forwarding for service on in Civil No. of that Court.

Read bailiff's endorsement on the back of the process stating that the and proof of the above having been duly taken by me on the [oath *or*] affirmation of and it is ordered that the be returned to the with a copy of this proceeding.

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 122.

DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure.

(*Title.*)

I, the undersigned defendant [*or* one of the defendants], disclaim all interest under the will of the said *E. F.* in the plaint named [*or*, as heir-at-law of, *or*, as next-of-kin, *or* one of the next-of-kin, of *E. F.*, deceased, in the said plaint named].

Or, I the undersigned defendant state, that I admit [*or* deny] [*here repeat in the language of the plaint the statements admitted or denied*].

Or, I the undersigned defendant submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [*or*, that it appears upon the said plaint that I am jointly liable with one *E. F.*, who is not a party to the suit, and not severally liable as by the plaint appears, *or*, that it appears by the said plaint that *G. H.* should have been a joint plaintiff with the said *A. B.* in the said suit, *or, as the case may be*].

Or, that the plaintiff has conveyed [*or* assigned] his interest in the said mortgage [*or* equity of redemption] to one *I. J.* [*or*, that I have conveyed or assigned to *H. L.* by way of further charge for securing the sum of Rs. , the equity of redemption in the property sought by the suit to be foreclosed].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership trading [*or, as the case may be*].

(*Signed*) *C. D.*,

Defendant.

No. 123.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B.

against

C. D., *E. F.* and *G. H.*

Interrogatories on behalf of the above-named *A. B.* [*or C. D.*] for the examination of the above-named [*E. F.* and *G. H.*, *or A. B.*].

1. Did not &c.

2. Has not &c.

The defendant *E. F.* is required to answer the interrogatories numbered

The defendant *G. H.* is required to answer the interrogatories numbered

No. 124.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B.

against

C. D.

Take notice that the plaintiff [*or* defendant] requires you to produce for his inspection the following documents referred to in your plaint [*or* written statement, *or* affidavit], dated the day of 18 .

Describe documents required.

X. Y. Pleader for the plaintiff [*or* the defendant].

To *Z.*

Pleader for the defendant [*or* plaintiff].

No. 125.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS your attendance is required to on behalf of the in the above cause, you are hereby required [personally to appear before this Court] on the day of 18 , at the hour of A. M. [and] to bring with you or to send to this Court

A sum of Rs. , being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you do not comply with this order, you will be subject to the consequence of non-attendance laid down in the Code of Civil Procedure, section 170.

Notice—(1). If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.

(2). If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to you for each day's attendance beyond the day specified.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 126.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

Another Form.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.

Defendant.

To (*Name, description and address.*)

You are hereby summoned to appear in this Court in person on the day of at in the forenoon, to give evidence on behalf of the plaintiff [*or* the defendant] in the above-mentioned suit, and to produce [*here describe with convenient certainty any document the production of which may be required. If the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly*] and you are not to depart thence until you have been examined [*or* have produced the document] and the Court has risen, or unless you have obtained the leave of the Court.

FORMS OF DECREES.

No. 127.

SIMPLE MONEY-DECREE.

(*Title.*)

Claim for

This cause coming on for final disposal before in the presence of , on the part of the plaintiff, and on the part of the defendant, it is ordered that the do pay to the the sum of Rs. , with interest thereon at the rate of per cent. per from to the date of realization of the said sum, and do also pay to the the costs of this suit as taxed by the officer of the Court, with interest thereon at the rate aforesaid from the date of taxation to the date of realization.

Costs of suit.

PLAINTIFF.	Rs.	A.	P.	DEFENDANT.	Rs.	A.	P.
1. Stamp for plaint ...				Stamp for power ...			
2. Do. for power ...				Do. petition ...			
3. Do. exhibits ...				Pleader's fee			
4. Pleader's fees on Rs. ...				Subsistence for witnesses ...			
5. Translation fee ...				Service of process ...			
6. Subsistence for witness for attendance ...				Translation fee ...			
7. Commissioner's fee ...				Commissioner's fee ...			
8. Service of process ...							
9. &c.							
TOTAL ...				TOTAL ...			

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 128.

DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(*Title.*)

It is ordered that it be referred to the Registrar [*or* Taxing Officer] to take an account of what is due to the plaintiff for principal and interest on the mortgage [*or* lien] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the Registrar do certify to the Court on the day of what he shall find to be due for principal and interest as aforesaid, and for costs; And upon the defendant paying into Court what shall be certified to be due to the plaintiff for principa and interest as aforesaid, together with the said costs, within six months after the Registrar [*or* Taxing Officer] shall have presented his certificate; it is ordered that the plaintiff do reconvey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under him, and do deliver up to the Registrar [*or* Taxing Officer] all deeds and writings in his custody or power relating thereto, and that upon such reconveyance being made, and deeds and writings being delivered up, the Registrar [*or* Taxing Officer] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest and costs; but in default of the defendant paying into Court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or* the premises subject to the said lien] be sold with the approbation of the Registrar [*or* Taxing Officer]. And it is ordered that the money to arise by such sale be paid into Court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant.

No. 129.

FINAL DECREE FOR FORECLOSURE.

(*Title.*)

Whereas it appears to the Court that the defendant has not paid into Court the sum which was on the day of last certified by the Registrar to be due to the Plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in this suit on the day of last, and that the period of six months has elapsed since the said day of

It is ordered that the Defendant do stand absolutely debarred and foreclosed of and from all equity of redemption of, in, and to, the said mortgaged premises.

No. 130.

PRELIMINARY ORDER—ADMINISTRATION SUIT.

Section 213 of the Code of Civil Procedure.

(*Title.*)

It is ordered that the following accounts and inquiries be taken and made; that is to say:—

In creditor's suit—

1. That an account be taken of what is due to the Plaintiff and all other the creditors of the deceased.

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next-of-kin [*or* one of the next-of-kin] of the intestate.

[*After the first paragraph, the Order will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law, and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors, will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.*]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the Defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered, that the Defendant do, on or before the day of next, pay into Court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the *Registrar* shall find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into Court.

8. And that Mr. *E. F.* be Receiver in the suit [*or* proceeding], and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar [and shall give security by bond for the due performance of his duties to the amount of rupees].

9. And it is further ordered, that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say,—

(*a*) an inquiry what immoveable property the deceased was seised of or entitled to at the time of his death;

(*b*) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased, or any part thereof;

(*c*) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immoveable property of the deceased, or so much thereof as shall be necessary to make up the fund in Court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered, that *G. H.* shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered, that, for the purpose of the inquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of and that the Registrar do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

14. And, lastly, it is ordered, that this suit [*or* matter] stand adjourned for making final decree to the day of

[*Such part only of this order is to be used as is applicable to the particular case.*]

No. 131.

FINAL DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE.

Section 213 of the Code of Civil Procedure.

1. It is ordered that the defendant do on or before the day of pay into Court the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the estate of , the testator, and also the sum of Rs. for interest, at the rate of Rs. per centum per annum, from the day of to the day of amounting together to the sum of Rs.

2. Let the Registrar [*or* Taxing Officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rs. ordered to be paid into Court as aforesaid, as follows:—

(*a.*)—The costs of the plaintiff to Mr. , his attorney [*or* pleader], and the costs of the defendant to Mr. , his attorney [*or* pleader].

(*b.*)—And (*if any debts are due*), with the residue of the said sum of Rs. after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid; and after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.

3. And if there should then be any residue, let the same be paid to the residuary legatee.

DECREE IN AN ADMINISTRATION SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

Section 213 of the Code of Civil Procedure.

1. Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff;

2. And it is ordered, that an account be taken of what is due for principal and interest on the said legacy;

3. And it is also ordered, that the defendant do within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest;

4. And it is ordered, that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ.

FINAL DECREE IN AN ADMINISTRATION SUIT BY NEXT-OF-KIN.

Section 213 of the Code of Civil Procedure.

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of *E. F.*, the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.

2. And it is ordered, that the residue of the said sum of Rs. , after payment of the plaintiffs' and defendant's costs as aforesaid, be paid and applied by defendant as follows:—

(*a.*)—Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs, *A. B.*, and *C.*, his wife, in her right, as the sister and one of the next-of-kin of the said *E. F.*, the intestate.

(*b.*)—Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next-of-kin of the said *E. F.*, the intestate.

(*c.*)—And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the ramaining one-third share of the said residue to *G. H.*, as the brother and the other next-of-kin of the said *E. F.*, the intestate.

No. 132.

ORDER—DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure.

(*Title.*)

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the *Gazette, &c.*

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property and effects now belonging to the said partnership;

2. An account of the debts and liabilities of the said partnership;

3. An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken and all the other acts required to be done be completed before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of

No. 133.

PARTNERSHIP. FINAL DECREE.

Section 215 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Regular No.

A. B. of
against
C. D. of

It is ordered that the fund now in Court, amounting to the sum of Rs. be applied as follows:—

1. In payment of the debts due by the partnership set forth in the Registrar's certificate amounting in the whole to Rs.

2. In payment of the costs of all parties in this suit, amounting to Rs.
[*These costs must be ascertained before the decree is drawn up*].

3. In payment of the sum of Rs. to the plaintiff as his share of the partnership-assets, of the sum of Rs. , being the residue of the said sum of Rs. now in Court to the defendant as his share of the partnership-assets.

[*Or*, And that the remainder of the said sum of Rs. be paid to the said plaintiff (*or* defendant) in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts.

And that the defendant (*or* plaintiff) do on or before the day of pay to the plaintiff (*or* defendant) the sum of Rs. being the balance of the said sum of Rs. due to him, which will then remain due].

No. 134.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

Section 224 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D of

CERTIFIED that no [*or* partial, *as the case may be, and if partial, state to what extent*] satisfaction of the decree of this Court, in Civil Suit No. of 18 a copy of which is hereunto attached, has been obtained by execution within the jurisdiction of this Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 135.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 248 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .

A. B. of
against
C. D. of

To

WHEREAS has made application to this Court for execution of decree in Civil Suit No. 18 , this is to give you notice that you are to appear before this Court on the day of 18 , either in person or by a Pleader of this Court, or agent duly authorized and instructed to show cause, if any, why execution should not be granted.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 136.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANT'S POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

Section 254 of the Code of Civil Procedure.

(*Title.*)

TO THE BAILIFF OF THE COURT.

WHEREAS was ordered, by decree of this Court, passed on the day of 18 , in Suit No. of 18 , to pay to the plaintiff the sum of Rs. as noted in the margin; and whereas the said sum of Rs. has not been paid

DECREE.			
Principal			
Interest			
Costs			
Costs of decree . .	—	—	—
Interest thereon . .			
Total of attachment			
TOTAL . .	—	—	—

THESE ARE TO COMMAND YOU to attach the moveable property of the said as set forth in the list hereunto annexed, or which shall be pointed out to you by the said , and unless the said shall pay to you the said sum of Rs. together with Rs. , the costs of this attachment, to hold the same until further orders from this Court.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 18 , with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 137.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &c.

Section 263 of the Code of Civil Procedure.

(*Title.*)

TO THE BAILIFF OF THE COURT.

WHEREAS , in the occupancy of has been decreed to , the plaintiff in this suit: you are hereby directed to put the said in possession of the same, and you are hereby authorized to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 in favour of for Rs. it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from

receiving from the following property in the possession of the said that is to say, to which the defendant is entitled, subject to any claim of the said , and the said is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT SECURED BY NEGOTIABLE INSTRUMENTS

Section 268 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 , in Civil Suit No. of 18 , in favour of for Rs. : it is ordered that the defendant be, and hereby, prohibited and restrained, until the further order of this Court, from receiving from you a certain debt alleged now to be due from you to the said defendant, namely, and that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from making payment of the said debt, or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 140.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &C.

Section 268 of the Code of Civil Procedure.

(*Title.*)

To

Defendant, and to

, Manager of

Company

WHEREAS has failed to satisfy a decree passed against on the day of 18 , in Civil Suit No. of 18 in favour of for Rs. it is ordered that you, the defendant, be, and you are hereby, prohibited and restrained, until the further order of this Court, from making any transfer of shares in the aforesaid Company, namely, or from receiving payment of any dividends thereof; and you , the Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 141.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 274 of the Code of Civil Procedure.

(*Title.*)

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the day of 18 , in Civil Suit No. of 18 , in favour of for Rs. : it is ordered that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 142.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

Sections 272 and 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

SIR,

THE plaintiff having applied, under section of the Code of Civil Procedure, for an attachment of certain money now in your hands (*here state how the money is supposed to be in the hands of the person addressed, on what account, &c.*), I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,
SIR,
Your most obedient Servant,

L. S.

Dated the day of 18 . *Judge.*

No. 143.

ORDER FOR PAYMENT TO THE PLAINTIFF, &C., OF MONEY, &C., IN THE HANDS OF A THIRD PARTY.

Section 277 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

Miscellaneous No. of 18 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT AND TO

WHEREAS the following property has been attached in execution of a decree in Civil Suit No. of 18 , passed on the day of 18 , in favour of for Rs. : it is ordered

that the property so attached, consisting of Rs. in money, and Rs. in Bank Notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you the said , to , and that the said property, so far as may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees, and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the said decree, shall be paid over to the said , and the remainder, if any, shall be paid to you, the said

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 144.

NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .
A. B. of
against
C. D. of

To

WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of the decree in Civil Suit No. of 18 this is to give you notice to appear before this Court on , the day of , 18 , either in person or by a Pleader of the Court duly instructed, to support your claim as attaching creditor.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 145.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

Section 287 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
Miscellaneous No. of 18 .
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

THESE ARE TO COMMAND YOU to sell by auction, after giving days' previous notice, by affixing the same in this Court-house, and after making due proclamation,* the property attached under a Warrant from this Court dated the of 18 in execution of a decree in favour of in suit No. of 18 or so much of the said property as shall realize the sum of Rs. , being the of the said decree and costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 18 with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

* This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed, should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered.

No. 146.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 300 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

WHEREAS has been the purchaser at a sale by auction in execution of the decree in the above suit of now in your possession, you are hereby prohibited from delivering possession of the said to any persons except the said .

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 147.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

and to

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of certain debt due from you to you , that is to say , it is ordered that you be and you are hereby prohibited from receiving, and you from making payment of, the said debt to any person or persons except the said .

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 148.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .
A. B. of
against
C. D. of

To

Manager of Company.

and

WHEREAS has become the purchaser at a public sale in execution of the decree in the above suit of certain shares in the above Company, that is to say of standing in the name of you it is ordered

that you be, and you are hereby, prohibited from making, any transfer of the said shares to any person except the said the purchaser aforesaid, or from receiving any dividends thereon: and you , Manager of the said Company, from permitting any such transfer or making any such payment to any person except the said , the purchaser aforesaid.

GIVEN under my hand and the seal of the Court, this day of 18 .

Judge.

No. 149.

ORDER CONFIRMING SALE OF LAND, &c.

Section 312 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

WHEREAS the following land (or immoveable property) was on the day of 18 sold by the Bailiff of this Court in execution of the decree in this suit; and whereas thirty days have elapsed and no application has been made (*or* objection allowed) to the said sale, it is ordered that the said sale be, and the said sale is hereby, confirmed.

GIVEN under my hand and the seal of the Court, this day of 18

SCHEDULE.

L. S.

Judge.

No. 150.

CERTIFICATE OF SALE OF LAND.

Section 316 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

THIS is to certify that has been declared the purchaser at a sale by public auction on the day of 18 of the in execution of decree in this suit, and that the said sale has been duly confirmed by the Court.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 151.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

Section 318 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has become the certified purchaser of at a sale in execution of decree in Civil Regular No. of 18 , and whereas such land is in the possession of you are hereby ordered to put the said , the certified purchaser, as aforesaid, into possession of the said and if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

No. 152.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND ON SECURITIES BEING GIVEN.

Section 326 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

Collector of

SIR,

In answer to your communication No. , dated representing that the sale in execution of decree in this suit of land, lying within your district, paying revenue to Government, is objectionable, I have the honour to inform you that you are authorized, on security to the amount of Rs. decreed to the in the above suit, being given to your satisfaction, to make provision for the satisfaction of the said decree in the manner recommended by you instead of proceeding to a public sale of

I have the honour to be,
SIR,
Your obedient Servant,

L. S.

Judge.

No. 153.

ORDER FOR COMMITTAL FOR RESISTING, &c., EXECUTION OF DECREE FOR LAND.

Section 329 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS it appears to the Court that has without just cause resisted (*or* obstructed) the execution of the decree of the Court

passed against on the day of 18
in Civil Suit, No. of 18 , whereby certain land or immoveable property
was adjudged to , it is ordered that the said
be committed to custody for a period of days.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 154.

WARRANT OF ARREST IN EXECUTION.

Section 337 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
Miscellaneous No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS was adjudged by a decree of the Court, in No. of 18 , dated 18 , to pay to the plaintiff the sum of Rs. as noted in the margin, and whereas the said sum of Rs. has not been paid to the said plaintiff in satisfaction of the said decree, these are to command you to arrest the said defendant, and unless the said defendant shall pay to you the said sum of Rs. , together with Rs. for the costs of executing this process, to bring the said defendant before the Court with all convenient speed. You are further commanded to return this warrant on or before the day of 18 , with an endorsement certifying the day and manner in which it has been executed, or the reason why it has not been executed.

Principal			
Interest			
Costs			
Execution			
TOTAL .			

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 155.

NOTICE OF PAYMENT INTO COURT.

Section 377 of the Code of Civil Procedure.

IN THE 187 .

B. No.

A. B. v. *C. D.*

TAKE notice that the defendant has paid into Court Rs. and says that that sum is enough to satisfy the plaintiff's claim [*or* the plaintiff's claim for, *&c.*].

To Mr. *X. Z.*,
the Plaintiff's Pleader,
Z.,
Defendant's Pleader.

No. 156.

COMMISSION TO EXAMINE ABSENT WITNESSES.

Section 386 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

To

WHEREAS the evidence o is required by the
n the above suit; and whereas you are requested to take the

examination on interrogatories [*or* viva voce] of such witnesses and you are hereby appointed a Commissioner for that purpose, and you are further requested to make return of such examination so soon as it may be taken [Process to require the attendance of the witness will be issued by this Court on your application.]*

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.

Sections 392 and 395 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

To

WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for should be issued; you are hereby appointed Commissioner for the purpose of [process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on your application.]†

A sum of Rs. , being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

† Not necessary where the commission goes to another Court.

No. 158.

WARRANT OF ARREST BEFORE JUDGMENT.

Section 478 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the plaintiff in the above suit, has proved to the satisfaction of the Court that there is probable cause for believing that the defendant is about to the said these are to command you to take into custody, and to bring before the Court, in order that he may show cause why he should not furnish security to the amount of rupees for personal appearance before the Court, until such time as the said suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed against in the suit.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 159.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18

A. B. of
against
C. D. of

To

WHEREAS , Plaintiff in this suit, has made application to the Court that security be taken for the appearance of the Defendant to answer any judgment that may be passed against in the suit; and whereas the Court has called upon the Defendant to furnish such security, or to offer a sufficient deposit in lieu of security, which has failed to do; it is ordered that the said Defendant be committed to custody until the decision of the suit; or if judgment be given against until the execution of the decree.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 160.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE.

Section 484 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has proved to the satisfaction of the Court that the Defendant in the above suit these are to command you to call upon the said Defendant on or before the day of either to furnish security for the sum of rupees to produce and place at the disposal of this Court when required or the value thereof, or such portion of the value as may be sufficient to fulfil any decree that may be passed against or to appear and show cause why should not furnish security; and you are further ordered to attach the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to the Court immediately after the execution hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 161.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the Plaintiff in this suit, has applied to the Court to call upon . the Defendant, to furnish security to fulfil any decree that may be passed against in the suit, and whereas the Court has called upon

the said to furnish such security which has failed to do ; these are to command you to attach the property of the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to this Court immediately after the execution hereof, and have you here then this Warrant.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 162.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

Defendant.

IT is ordered that you the said be, and you are hereby, prohibited and restrained until the further order of this Court from receiving from the following property in the possession of the said that is to say to which the defendant is entitled, subject to any claim of the said and the said is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 163.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

Defendant.

IT is ordered that you the said be, and you are hereby prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby, prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .

SCHEDULE.

L. S.

Judge.

No. 164.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS, OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To

IT is ordered that the defendant be, and he is hereby, prohibited and restrained, until the further order of this Court, from receiving from the [money now in hands belonging to the said defendant *or* debts, *as the case may be, describing them*] and that the said be and hereby prohibited and restrained, until the further order of this Court, from making payment of the said [money, *&c.*], or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 165.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of

against

C. D. of

To Defendant and

to

Manager of Company.

It is ordered that , the defendant, be and hereby prohibited and restrained, until the further order of the Court, from making any transfer of shares being in the aforesaid Company, or from receiving payment of any dividends thereof, and you Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer, or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 166.

TEMPORARY INJUNCTIONS.

Section 492 of the Code of Civil Procedure.

Upon motion made unto this Court by Pleader of (*or* Counsel for) the plaintiff *A. B.*, and upon reading the petition of the said plaintiff in this matter filed (this day) [*or* the plaint filed in this cause on the day of , *or* the written statement of the said plaintiff filed on the day of] and upon hearing the evidence of and in support thereof, [*if after notice and defendant not appearing, add*, and also the evidence of as to service of notice of this motion upon the defendant *C.D.*] This Court doth order that an injunction be awarded to restrain the defendant *C. D.*, his servants, workmen and agents from pulling down, or suffering to be pulled down the house in the plaint in the said suit of the plaintiff mentioned [*or* in the written statement *or* petition of the plaintiff and evidence at the hearing of this motion mentioned] being No. 9, Oilmongers Street, Hindúpur, in the Taluq of and from selling the materials whereof the said house is composed, until the hearing of this cause or until the further order of this Court.

Dated this day of 187 .

Civil Judge.

[*Where the injunction is sought to restrain the negotiation of a bill, note or security, the ordering part of the order may run thus :—*] to restrain the defendants and from parting with out of the custody of them or any of them, or endorsing, assigning or negotiating the promissory note in question, dated on or about the *&c.*, mentioned in the plaintiff's plaint [*or* petition] and the evidence heard at this motion, until the hearing of this cause, or until the further order of this Court.

[*In copyright cases*] to restrain the defendant, *C. D.*, his servants, agents, or workmen from printing, publishing, or vending a book, called , or any part thereof, until the, *&c.*

[*Where part only of a book is to be restrained*] to restrain the defendant, *C. D.*, his servants, agents, or workmen, from printing, publishing, selling, or otherwise disposing of such parts of the book in the plaint [*or* petition and evidence, *&c.*,] mentioned to have been published by the defendant as hereinafter specified, namely, that part of the said book which is entitled and also that part which is entitled (*or* which is contained in p. to p. both inclusive) until the *&c.*

[*In patent cases*] to restrain the defendant, *C. D.*, his agents, servants and workmen, from making or vending any perforated bricks (*or, as the case may be*) upon the principle of the inventions in the plaintiff's plaint [*or* petition, *&c.*, *or* written statement, *&c.*,] mentioned, belonging to the plaintiffs, or either of them, during the remainder of the respective terms of the patents in the plaintiff's plaint (*or, as the case may be*) mentioned, and from counterfeiting, imitating or resembling the same inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, &c.

[*In cases of trade-marks*] to restrain the defendant, *C. D.*, his servants, agents or workmen, from selling, or exposing for sale, or procuring to be sold, any composition or blacking (*or, as the case may be*) described as or purporting to be blacking manufactured by the plaintiff, *A. B.*, in bottles having affixed thereto such labels as in the plaintiff's plaint [*or* petition, *&c.*] mentioned, or any other labels so contrived or expressed as, by colorable imitation or otherwise, to represent the composition or blacking sold by the defendant to be the same as the composition or blacking manufactured and sold by the plaintiff, *A. B.*, and from using trade-cards so contrived or expressed as to represent that any composition or blacking sold or proposed to be sold by the defendant is the same as the composition or blacking manufactured or sold by the plaintiff, *A. B.*, until the, &c.

[*To restrain a partner from in any way, interfering in the business*] to restrain the defendant, *C. D.*, his agents and servants, from entering into any contract, and from accepting, drawing, endorsing or negotiating any bill of exchange, note or written security, in the name of the partnership firm of *B. & D.*, and from contracting any debt, buying and selling any goods, and from making or entering into any verbal or written promise, agreement or undertaking, and from doing or causing to be done, any act, in the name or on the credit of the said partnership firm of *B. & D.*, or whereby the said partnership firm can or may in any manner become or be made liable to or for the payment of any sum of money, or for the performance of any contract, promise or undertaking, until the, &c.

No. 167.

NOTICE OF APPLICATION FOR INJUNCTION.

Section 494 of the Code of Civil Procedure.

IN THE COURT OF AT

A. B. of

against

C. D. of

Take notice that I, *A. B.*, intend to apply at the sitting of the Court at aforesaid, on the day of for an injunction to restrain *C. D.* from further prosecuting a suit which he has commenced against me in to recover damages for the breach of the contract for the specific performance of which this suit was commenced [*or* to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding up of which the suit was commenced, *or* from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this suit is commenced to enforce, *or, as the case may be*].

Dated this day of 18 .

A. B.

To *C.D.*

[*N. B.—Where the injunction is to be applied for against a party whose name and address does not appear upon any proceeding already filed in the suit, it must be stated in full to enable the proper officer to serve the notice.*]

No. 168.

APPOINTMENT OF A RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of 18 .

A. B. of
against
C. D. of

To

WHEREAS has been attached in execution of a decree passed in the above suit on the day of 18 , in favour of : you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Receiver of the said property under section 503 of the Code of Civil Procedure, with full powers under the provisions of that section.

YOU are required to render a due and proper account of your receipts and disbursements in respect of the said property on . You will be entitled to remuneration at the rate of per cent. upon your receipts under the authority of this appointment.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF AT

Civil Suit No. of

A. B. of
against
C. D. of

KNOW all men by these presents, that we, *A. B.* of, &c., and *C. D.* of, &c., and *E. F.* of, &c., are jointly and severally bound to *G. H.*, Registrar of the Court of in Rs. , to be paid to the said *G. H.* or his attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.

Dated this day of 18 .

And whereas a plaint has been filed in this Court by *A. B.* against *C. D.* for the purpose of (*here insert object of suit*).

And whereas the said *A. B.* has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immoveable property, and to get in the outstanding moveable property of *C. D.*, the testator in the said plaint named.

Now the condition of this obligation is such, that if the above-bounden *A. B.* shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immoveable property, and in respect of the moveable property of the said *C. D.* [*or, as may be*] at such periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

A. B.
C. D.

Signed and delivered by the above-bounden in the presence of

NOTE.—*If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.*

No. 170.

ORDER OF REFERENCE TO ARBITRATION UNDER AGREEMENT OF PARTIES.

Section 508 of the Code of Civil Procedure.

(*Title.*)

To

WHEREAS the above-mentioned plaintiff and defendant have agreed to refer the matters in difference between them in the above suit to your arbitration and award, you are hereby appointed accordingly to determine all the said matters in difference between the parties, and with power, by consent of the parties, to determine which party shall pay the costs of this reference.

You are required to deliver your award in writing to this Court on or before the day of 18 , or such other day as this Court may further fix.

Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on our application, and you are empowered to administer to such witnesses oath or affirmation.

A sum of Rs. , being your fee in the above suit, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 171.

ORDER OF REFERENCE TO ARBITRATION BY COURT, WITH CONSENT.

Section 508 of the Code of Civil Procedure.

(*Title.*)

UPON reading a petition of the plaintiff, filed this day, and on the consent of for the defendant, and upon hearing for the plaintiff and for the defendant, it is ordered, by and with the consent of all the parties, that all matters in difference in this suit, including all dealings and transactions between all parties, be referred to the final determination of , who is to make his award in writing and submit the same to this Court, together with all proceedings, depositions, and exhibits in this suit, within one month from the date hereof. And it is ordered further, by and with the like consent, that the said arbitrator is to be at liberty to examine the parties and their witnesses upon oath or affirmation, which he is empowered to administer, and that the said arbitrator shall have all such powers or authorities as are vested in arbitrators under the Code of Civil Procedure, including therein power to call for all books of account that he may consider necessary. And it is further ordered, by and with the like consent, that the costs of this suit, together with the costs of reference to arbitration, up to and including the award of the said arbitrator, and the enforcement thereof, do abide the result of the finding of the said arbitrator. And it is further ordered, by and with the like consent, that the said arbitrator be at liberty to appoint a competent accountant to assist him in the investigation of the several matters referred to him as aforesaid, and that the remuneration of such accountant and other charges attending thereto be in the discretion of the said arbitrator.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 172.

SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT.

Section 532 of the Code of Civil Procedure.

No. OF SUIT.

IN THE COURT OF AT

Plaintiff.
Defendant.

To [*Here enter the defendant's name, description and address.*]

Whereas [*here enter the plaintiff's name, description and address*] has instituted a suit in this Court against you under Chapter XXXIX of the Code of Civil Procedure for Rs. principal and interest [*or* Rs. balance of principal and interest] due to him as the payee [*or* indorsee] of a bill of exchange [*or* hundí *or* promissory note], of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within seven days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such seven days to obtain a decree for any sum not exceeding the sum of Rs. [*here state the sum claimed*] and the sum of Rs. for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

Here copy the bill of exchange, hundí or promissory note, and all endorsements upon it.]

No. 173.

MEMORANDUM OF APPEAL.

Section 540 of the Code of Civil Procedure.

MEMORANDUM OF APPEAL.

(*Name, &c., as in Register.*) Plaintiff—Appellant.
(*Name, &c., as in Register.*) Defendant—Respondent.

[*Name of Appellant*] [plaintiff or defendant] above-named appeals to the High Court at [*or* District Court at , *as the case may be*] against the decree of in the above suit, dated the day of , for the following reasons, namely [*here state the grounds of objection*].

No. 174.

REGISTER OF APPEALS.

Section 550 of the Code of Civil Procedure.

COURT (*OR* HIGH COURT) AT

REGISTER OF APPEALS FROM DECREES in the year 18 .

Date of Memorandum.	No. of appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.			
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or altered.	For what, or Amount.	

No. 175.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.

Section 553 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

APPEAL from the dated the of the Court of day of 18 .

Respondent.

To

Take notice that an appeal from the decree of in this case has been presented by and registered in this Court, and that the day of 18 has been fixed by this Court for the hearing of this appeal.

IF no appearance is made on your behalf by yourself, your pleader, or by some one by law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your absence.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

NOTE.—If a stay of execution has been ordered, intimation should be given of the fact on this notice.]

No. 176.

DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Appellant*, v. , *Respondent*.

Appeal from the of the Court of dated the day of 18 .

Memorandum of Appeal.

, *Plaintiff*.

, *Defendant*.

Plaintiff [*or* defendant] above-named appeals to the Court at against the decree of in the above suit, dated the day of 18 , for the following reasons, namely;

[*here state the reasons*]

This appeal coming on for hearing on the day of 18 , in the presence of for the Respondent, it is ordered—before for the Appellant, and of

[*here state the relief granted*]

, are to be paid by

The costs of this appeal, amounting to

The costs of the original suit are to be paid by

GIVEN under my hand, this day of 18 .

Judge.

No. 177.

REGISTER OF APPEALS FROM APPELLATE DECREES.

Section 587 of the Code of Civil Procedure.

HIGH COURT AT

REGISTER OF APPEALS FROM APPELLATE DECREES.

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			APPEARANCE.			DECREE APPEALED FROM.				JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Day for parties to appear.	Appellant.	Respondent.	Amount or Value.	Particulars.	No. of Original suit and of Appeal.	Of what Court.	Date.	Confirmed, reversed or altered.	For what, or Amount.

No. 178.

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

Section 626 of the Code of Civil Procedure.

IN THE COURT OF AT

, *Plaintiff*, v. , *Defendant*.

To

TAKE notice that has applied to this Court for a review of its judgment passed on the day of 18 in the above case. The day of 18 is fixed for you to show cause why the Court should not grant a review of its judgment in this case.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 179.

NOTICE OF CHANGE OF PLEADER.

IN THE COURT OF AT

A. B. of
against
C. D. of

TO THE REGISTRAR OF THE COURT.

TAKE notice that I, *A. B.* [*or C. D.*], have hitherto employed as my pleader *G. H.* of in the above-mentioned cause, but that I have ceased to employ him, and that my present pleader is *J. K.* of

A. B. [*or C. D.*]

No. 180.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE, OR ORDER OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [*place of office*] from *ten* till *four*, except on [*here insert the day on which the office will be closed*], when the office will be closed at *one*.

WHITLEY STOKES,

Secretary to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 2, 1877. { Register No. 33.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the thirty-first May 1877, and is hereby promulgated for general information:—

ACT No. XI OF 1877.

An Act 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 belongs and the medical officer in charge of the corps or detachment of which such wing or squadron forms part. Examination of Native by committee.

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 on Native being found by committee to be insane.

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.

Procedure for discharge of European or Native military 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.

Payment of expenses of lunatic.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

Legalization of past receptions in asylum.

A. PHILLIPS,
Secy. to the Govt. of India.

The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JUNE 9, 1877. { Register No. 33.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the thirty-first May 1877, and is hereby promulgated for general information:—

ACT No. XI OF 1877.

An Act 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 belongs and the medical officer in charge of the corps or detachment of which such wing or squadron forms part.

Examination of Native by committee.

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 on Native being found by committee to be insane.

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.

Procedure for discharge of European or Native military 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.

Payment of expenses of lunatic.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

Legalization of past receptions in asylum.

A. PHILLIPS,
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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the thirty-first May 1877, and is hereby promulgated for general information:—

ACT No. XI OF 1877.

An Act 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 dominionsof 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 belongs and the medical officer in charge of the corps or detachment of which such wing or squadron forms part.

Examination of Native by committee.

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 on Native being found by committee to be insane.

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.

Procedure for discharge of European or Native military 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.

Payment of expenses of lunatic.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

Legalization of past receptions in asylum.

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 IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th June 1877, and is hereby promulgated for general information:—

ACT No. XII OF 1877.

An Act 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.

A. PHILLIPS,
Secy. to the Govt. of India.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th June 1877, and is hereby promulgated for general information:—

ACT No. XIII OF 1877.

An Act to provide for the execution of works urgently required in connection with embankments in British Burma.

Preamble.

WHEREAS it is expedient to provide for the execution of works urgently required 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;

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, by notification in the *British Burma Gazette*, to carry out this Act in respect of such embankment.

Circumstances under which this Act may be put in operation.

3. Whenever the embankment-officer has reason to believe 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 person who resides in the neighbourhood of such embankment, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such work by labouring thereon as such officer or any person authorized by him in this behalf may direct; and

(*b*) such officer or any person authorized by him in this behalf may enter into and 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 in or upon such property, and use the same for the purposes of such work.

Power to take materials.

4. Subject to such rules as the Local Government may from time to time, with the previous sanction of the Governor General in Council, prescribe in this behalf, the Deputy Commissioner shall prepare a list of the persons liable to be required under section 3, clause (*a*), to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

List of labourers.

5. All persons labouring, or detained for the purpose of 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 and detention, or for such materials (as the case may be), at such rates, not being less than the highest 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.

Payment for labour impressed and materials taken.

6. 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 five, 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, subject to such rules, as to appeal or otherwise, as the Chief Commissioner may from time to time prescribe in this behalf.

Compensation for damage done in taking materials.

7. Where an embankment-officer has been appointed for any embankment, any person who, without the permission of such officer,—

Penalties for trespass on embankments, &c.

(*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.

Explanation.—In this section, clause (*a*), "cattle" includes also elephants, buffalos, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

8. Every embankment-officer and every person 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; and nothing in the British Burma Labour Law, 1876, section 71, shall apply to any such officer or person acting under section three of this Act.

Certain persons to be deemed public servants.

A. PHILLIPS,
Secy. to the Govt. of India.

(First publication.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th June 1877, and is hereby promulgated for general information:—

ACT No. XIV OF 1877.

THE BROACH AND KAIRA INCUMBERED ESTATES ACT, 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 and expenses of debtor and family,
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 with claim.
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.
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 enquire 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 and their agents 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. Exemption of certain Thákurs from certain provisions of Act.
39. Amendment of Bombay Act VI of 1862.
40. Taluqdári Settlement Officer to be—
deemed an officer under Bombay Act VI of 1862, section 1,
Assistant to certain Collectors.
41. Acts of Taluqdári Settlement Officer valid.

An Act to relieve from Incumbrances the estates of Thákurs in Broach and Kaira.

Preamble.

WHEREAS many Thákurs in the districts of 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."

"Thákur" means also taluqdár, jágírdár, and 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:

"Heir."

"Heir" means the person for the time being entitled as heir to a Thákur:

"Commissioner."

"Commissioner" means the Revenue Commissioner of the Northern Division of the Presidency of Bombay.

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 of 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.

6. When an enquiry has been directed under section 5, 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*, direct that the immoveable property of the debtor shall be managed, and that his debts shall be liquidated, in the manner hereinafter provided, by a manager.

The Taluqdárí Settlement Officer for the time being shall, unless the Local Government in any case otherwise directs, be such manager.

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 8 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

(*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 any 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 and other necessary expenses of the debtor and of such members of his family as the Commissioner directs;

allowance for maintenance and expenses of debtor and family,

Fifthly, the cost of such improvements of the said property as he thinks necessary, and as are approved by the Commissioner.

cost of improvements, &c.

The residue shall be retained by the manager for the liquidation, in manner hereafter 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 Gujaráthí 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. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Power to exclude documents not produced with claim.

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 19, 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:

Claim not duly notified to be barred.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 12, the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Admission of claims within further period of six months.

15. The manager shall inquire into the history and merits of every claim received under sections 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.

Determination of debts and liabilities.

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.

Power to rank debts and to fix interest.

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.

Scheme for liquidation.

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.

Provisions of scheme.

18. The Commissioner may—

Proceedings of Commissioner on submission of scheme.

(*a*) as often as he thinks fit send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(*b*) sanction any liquidation-scheme, or any revised liquidation-scheme, submitted to him, either as it stands, or subject to such modifications as he may deem expedient.

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.

Power to relinquish management.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession 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 11, 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.

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—

Effects of sanctioning scheme.

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.

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.

Power to remove mortgagee in possession.

If such incumbrancer refuse or neglect to obey such order, the manager may, without resorting to a Civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive, under the liquidation-scheme, the amount (if any) awarded to him under Part IV of this Act.

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 inquire into consideration given for leases.

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 lease.

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—

Power to raise money by mortgage or sale.

(*a*) by mortgaging 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 charging the whole or any part of such property; or

(*c*) 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.

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.

Manager's receipt a discharge.

26. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged as therein provided, or in such other manner as the Commissioner thinks fit, the manager shall publish in the *Bombay Government Gazette* a notice fixing a date for the termination of the management.

Termination of management.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the manager under the power conferred by section 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.

Restoration of owner.

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—

Death of debtor during management.

1*st*, the management shall continue and proceed in all respects as if such debtor were still living;

2*ndly*, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by clauses (*b*) and (*c*) of section 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.

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.

Mortgages, &c., made by restored Thákur valid only for his life.

VI.—OF APPEAL AND REVISION.

29. An appeal against any decision or order under sections 14, 15, 16 and 22 or 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.

Appeal.

There shall be no appeal against the decision of the Commissioner on such appeal.

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.

Power to call for proceedings and pass order thereon.

VII.—MISCELLANEOUS.

31. The Local Government may, from time to time, make rules consistent with this Act—

Power to make rules.

(*a*) to regulate the security to be required from subordinate officers under this Act;

(*b*) to regulate the procedure in all cases under this Act;

(*c*) for the guidance of officers enquiring into and determining on claims under Part IV of this Act; and in particular as to the allowance of interest (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.

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.

Power to appoint new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

33. Every manager appointed under this Act and every agent of such manager shall be deemed a public servant within the meaning of the Indian Penal Code.

Managers and their agents 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 and any officer making an enquiry under section 5 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 anything 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. 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.

39. 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.

40. The said Taluqdárí Settlement Officer for the time being shall, unless the Local Government in any case otherwise directs, be—

Taluqdárí Settlement Officer to be—

(*a*) deemed to be an officer appointed under section 1 of the said Bombay Act No. VI of 1862, to manage all estates with respect to which a declaration is or has been made and published under the said section;

deemed an officer under Bombay Act VI of 1862, section 1.

Assistant to certain Collectors.

(*b*) an Assistant to the respective Collectors of Ahmedabad, Kaira and Broach.

Acts of Taluqdárí Settlement Officer valid.

41. Nothing heretofore done by any Taluqdárí Settlement Officer shall be deemed to be or to have been invalid by reason only of his not having been duly appointed,

(*a*) under section 1 of the said Bombay Act No. VI of 1862, to manage any estates with respect to which a declaration has been made under the said section, or

(*b*), to be a manager under the said Act No. XV of 1871, or

(*c*), to be an Assistant to the respective Collectors of Ahmedabad, Kaira and Broach.

A. PHILLIPS,
Secy. to the Govt. of India.

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.
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.

1. This Act shall be called "The Indian Forest Act, 1877;"

Short title.

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.

2. In this Act—unless there be something repugnant in the subject or context—

Interpretation-clause.

"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,

(*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; reserving trees,

(*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 prohibiting collection of forest-produce,

(*c*) the breaking up or clearing for cultivation, for building, for herding cattle or for any other purposes, any land in any such forest. and breaking up or clearing of land.

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.

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 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.

3. In this Act— Interpretation-clause.
"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 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.

Managers to be public servants.

33. Every manager appointed under this Act, shall be deemed a public servant within the meaning of the Indian Penal Code.

Investigation, a judicial proceeding.

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.

Power to summon witnesses and compel production of documents.

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.

Bar of suits.

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.

Saving of jurisdiction of Courts in Broach and Kaira in respect of certain 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.

Amendment of Bombay Act VI of 1862.

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.

Exemption of certain Thákurs from certain provisions of Act.

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:

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.

Preamble.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Transport of Salt Act, 1877:"

Extent.

It extends to the whole of British India and, further, applies—

(*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;

Commencement.

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.

Penalty for carrying salt in certain vessels.

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.

Exceptions.

3. Nothing in section two applies to—

(*a*) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873;

(*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.

Power of stoppage, search and arrest.

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—

(*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.

Penalties for resisting officer.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section four,

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Confiscation of vessel and cargo.

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.

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.

Adjudication of offences.

7. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Jurisdiction.

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.

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.

Preamble.

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:—

'Chief Court' defined in Act XIII of 1875, sections 2, 3 and 4.

1. The expression 'High Court' in each of the said sections shall mean, and be deemed to have always meant—

(*a*) a High Court for the time being established under the twenty-fourth and twenty-fifth of Victoria, chapter 104:

(*b*) the Chief Court of the Panjáb:

(*c*) the Court of the Recorder of Rangoon.

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.

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.

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.

Persons interested in forest bound to assist Forest and Police officers.

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,

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.

Local Government may confer additional powers.

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:—

(*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.

Local Government may invest Forest officers with certain powers.

72. The Local Government may invest any Forest officer by name, or as holding an office, with the following powers, that is to say:—

(*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.

Additional powers to make rules.

73. In addition to the other rules which the Local Government is hereby empowered to make, it may from time to time 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.

Power to impose penalties for breach of rules.

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.

Rules when to have force of law.

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.

Management of forests the joint property of Government and other persons.

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

(*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.

Recovery of money due to Government.

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.

Lien on forest-produce for such money.

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.

Power to sell such produce.

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.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Her Majesty.

Bribing Forest officers.

79. All Forest officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Indemnity for acts done in good faith.

80. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Forest officers not to trade.

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.

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—

(*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.

Managers to be public servants.

33. Every manager appointed under this Act, shall be deemed a public servant within the meaning of the Indian Penal Code.

Investigation, a judicial proceeding.

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.

Power to summon witnesses and compel production of documents.

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.

Bar of suits.

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.

Saving of jurisdiction of Courts in Broach and Kaira in respect of certain 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.

Amendment of Bombay Act VI of 1862.

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.

Exemption of certain Thákurs from certain provisions of Act.

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:

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.

Short title.

1. This Act may be called "The Transport of Salt Act, 1877:"

Extent.

It extends to the whole of British India and, further, applies—

(*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;

Commencement.

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.

Penalty for carrying salt in certain vessels.

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.

Exceptions.

3. Nothing in section two applies to—

(*a*) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873;

(*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.

Power of stoppage, search and arrest.

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—

(*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.

Penalties for resisting officer.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section four,

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be liable to a fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Confiscation of vessel and cargo.

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.

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.

Adjudication of offences.

7. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Jurisdiction.

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.

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.

'Chief Court' defined in Act XIII of 1875, sections 2, 3 and 4.

1. The expression 'High Court' in each of the said sections shall mean, and be deemed to have always meant—

(*a*) a High Court for the time being established under the twenty-fourth and twenty-fifth of Victoria, chapter 104:

(*b*) the Chief Court of the Panjáb:

(*c*) the Court of the Recorder of Rangoon.

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.
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.

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.

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.

[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.

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.

[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.

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:—

Preamble.

PART I.

PRELIMINARY.

1. This Act may be called 'The Indian Limitation Act, 1877,' and shall come into force on the first day of July 1877.

Short title. Commencement.

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.

2. 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 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.

3. In this Act, unless there be something repugnant in the subject or context—

Interpretation-clause.

'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.

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.

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 where Court is closed when period expires.

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Proviso as to appeals and applications for review.

6. When, by any law not mentioned in the schedule hereto annexed and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially prescribed for any suits, appeals or applications, nothing herein contained shall alter the period so prescribed.

Different periods of limitation prescribed by local laws.

And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

Appeals from decrees of High Courts on original side.

Legal 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.

Legal disability.

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.

Double and successive disabilities.

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.

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.

Disability of representative.

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.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

Disability of one joint creditor.

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.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

Continuous running of time.

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

10. Notwithstanding 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.

Suits against express trustees and their representatives.

Explanation.—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

11. Suits in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

Suits on foreign contracts.

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.

Foreign limitation law.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

13. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.

Exclusion of day on which right to sue accrues.

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.

Exclusion in case of appeals and certain applications.

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.

CALCUTTA,
14th February 1877.

A. HOBHOUSE.

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.
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 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.

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 *bond 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:—	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;		
(*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.		
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.

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.

CALCUTTA,
14th February 1877.

A. HOBHOUSE.

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.

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:

Appeal from order on petition.

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.

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.

Payment of taxes raised and penalties recovered under Act.

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.

Powers of Collector and Commissioner under Act may be exercised by other officers.

Every person shall be legally bound to furnish information to any officer or person so appointed when required by him to do so.

21. Nothing in this Act applies to (*a*) persons being itinerant vendors only, or (*b*) persons earning their livelihood solely by agriculture.

Exemptions from Act.

22. 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 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.

[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.

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 belongs and the medical officer in charge of the corps or detachment of which such wing or squadron forms part.

Examination of Native by committee.

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 on Native being found by committee to be insane.

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.

Procedure for discharge of European or Native military 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.

Payment of expenses of lunatic.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

Legalization of past receptions in asylum.

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 therein 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.

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 where Court is closed when period expires.

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Proviso as to appeals and applications for review.

6. When, by any 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.

Different periods of limitation prescribed by local laws.

And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

Appeals from decrees of High Courts on original side.

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.

Legal disability.

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.

Double and successive disabilities.

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.

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.

Disability of representative.

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.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

Disability of one joint creditor.

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.

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

Continuous running of time.

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

10. Notwithstanding 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.

Suits against express trustees and their representatives.

Explanation.—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

11. Suits instituted in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

Suits on foreign contracts.

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.

Foreign limitation law.

PART III.

COMPUTATION OF PERIOD OF LIMITATION.

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 of day on which right to sue accrues.

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.

Exclusion in case of appeals and certain applications.

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.

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 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 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.

Exclusion of time of proceeding *bonâ fide* in Court without jurisdiction.

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 order under Civil Procedure Code, s. 20.

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 or order.

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.

Exclusion of time during which judgment-debtor is attempting 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.

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,

Effect of part-payment of principal.

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent generally or specially authorized in this behalf,

a new period of limitation, according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that, in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in the 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 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 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.

Interpretation-clause.

2. In this Act—

"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.

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.

[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.

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.

Preliminary decree in redemption-suit.

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.

Loss occasioned by mortgagee's default.

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.

Procedure where nothing due or amount paid.

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 when amount due is not paid.

Interest.

Payment of 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.

Proviso.

Costs.

Costs of mortgagee.

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 subsequent to decree.

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.

Deposit of Title-deeds.

Effect of 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.

Sale of property subject to prior mortgage.

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.

Application of proceeds.

33. Such proceeds shall be brought into Court and applied as follows:

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.

Mortgage to secure balance of account.

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.

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.

Right to pay off mortgagee in order to prevent sale.

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.

Effect of such payment by person having whole interest in property charged.

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 payment by person only partially interested.

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.

Tacking abolished.

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.

Redemption of one of two properties separately mortgaged.

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.

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.

Rights and powers of transferee of mortgage-debt or mortgaged property.

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.

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.

Charge made by assurance or will.

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.

CHAPTER V.

OF LEASES OF IMMOVEABLE PROPERTY.

Form of written lease.

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.

Exclusion of day on which term commences.

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.

Duration of term.

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.

Option to determine lease.

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.

Rights and liabilities of lessor and lessee.

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:—

(*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.

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 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.

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.

Right to income of property coming into possession under settlement.

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.

CHAPTER VIII.

OF GIFTS FOR RELIGIOUS AND CHARITABLE PURPOSES.

Gift to charitable uses by person having certain relatives.

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.

Assurance of property in perpetuity for use of any community or institution.

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.

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.

Apportionment of rents and other periodical payments.

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.

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.

Rights and obligations of persons having limited interest in property.

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.

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.

Obligation of limited owner in possession of property mortgaged.

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.

Right to increase of value to property in which there are successive interests.

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.

EXPLANATION.—A person having a mortgage on property has not thereby an interest within the meaning of this section.

Discovery of death of tenant for life.

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.

Saving of lessees.

65. Nothing in this chapter applies to lessees.

CHAPTER XI.

OF THE DISCRETION OF THE COURTS TO DEAL WITH SETTLED LAND.

Powers exercisable by Court on application of person interested in possession in settled immoveable property.

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,—

(*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.

Service of notice and advertisement of application.

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.

Appearance to oppose or support 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.

Costs of 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.

Leases under section 66.

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.

Payment into Court of money receivable 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.

Power to direct payment of income to person entitled.

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

Application of residue.

the Court shall direct in one or more of the manners following:—

(*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.

Power to appoint, defined.

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.

Donor, donee, objects, appointee, 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.

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.

General power.

A power authorising the donee to appoint to whomsoever and for whatsoever interest he pleases, is called a general power.

Special power.

A power restricted in respect either of its objects or the interests that may be conferred under it, is called a special power.

Rules as to all powers.

Exercise of power vested in several donees.

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.

Modes in which powers may be executed.

75. The donor may direct that the power shall be exercised by will only or by non-testamentary instrument only.

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.

Jurisdiction to aid defective executions abolished.

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.

Validity of forms hereby prescribed.

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.

Concurrence where power is to be exercised with consent of several persons.

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.

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.

Recital of power not necessary.

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.

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.

Power exercisenble by several instruments executed at different times.

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.

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.

Disposition intended to take effect after interests appointed under void power.

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.

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.

Effect of general power.

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.

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.

Effect of general power without disposition of property in case of non-appointment.

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.

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.

Interest conferrible by donee of special power.

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.

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.

Effect of appointment to objects, some authorized and others unauthorized.

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.

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.

Appointment in excess of power when voidable at election of appointee.

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.

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.

Invalidity of appointment creating authorized and unauthorized interests not separable.

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.

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.

Appointment with unauthorized condition.

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.

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.

Contract not to exercise power of leasing.

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.

Invalidity of agreement not to exercise power.

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.

Frauds on powers.

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.

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.

Right to property in default of appointment.

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.

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.

Appointment of whole property to some only of several objects in favour of which power is given.

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:

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.

Right to property by survivorship created only by express words.

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

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*, I. 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. II 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, *The 19th April* 1877. } A. J. ARBUTHNOT.

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.

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.

[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 1 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 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.

15. On the completion of a mortgage the mortgagor has the following rights:—

Respective rights of mortgagor and mortgagee.

(*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 retransferred 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 (*q*) 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 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. C 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.
XVIII of 1876	Oudh Laws Act ...	and mortgages and conditional sales made after this Act comes into force. 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 Ilusain*, 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 71) 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 Maháls.

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.

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.

[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 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.

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.

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 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 (*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 acoruing (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 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 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 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 *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.

INDEX TO
The Gazette of India.
JANUARY TO JUNE 1877.
PART III.

A

Page

ADVERTISEMENTS and notices by private individuals and corporations 1, 3, 5, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, [23, 25, 28, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51

C

CIVIL FUND, Bengal—Report of half-yearly meeting held on 31st January 1877, 18; notice regarding half-yearly meeting, 39; ditto 43

H

HIGH COURT.—Notices by Registrar,—ordinary original jurisdiction 5, 29, 31
Hindu Family Annuity Fund.—Notices regarding— 27

P

PENSION FUND:—Uncovenanted Service—Result of votes 29
Promissory Notes:—Notices relative to lost or destroyed— 12, 14, 16, 21, 23, 25, 39, 41, 43, 45, 47, 49, 51
Promissory Note *found* 21, 23, 25

INDEX TO

The Gazette of India.

JANUARY TO JUNE 1877.

PART IV.

	Page		
ACTS OF THE GOVERNOR GENERAL'S COUNCIL ASSENTED TO BY THE GOVERNOR GENERAL—			
Act No. XIX of 1876.—"The Dramatic Performances Act, 1876."—An Act for the better control of dramatic performances			1
Act No. XX of 1876.—"The Bhaunagar Act, 1876."—An Act to give better effect to certain agreements with the Thakur of Bhaunagar			2
Act No. XXI of 1876.—An Act to amend the Land Improvement Act, 1871			4
Act No. XXII of 1876.—"The Indian Museum Act, 1876."—An Act to provide for the management of the Public Museum at Calcutta			4
Act No. XXIII of 1876.—"The Opium Act, 1876."—An Act to amend the law relating to Opium ...	7	13	
Act No. I of 1877.—"The Specific Relief Act, 1877."—An Act to define and amend the law relating to certain kinds of specific relief	19	33	59
Act No. II of 1877.—An Act to amend Act No. XIII of 1875	46	72	85
Act No. III of 1877.—"The Indian Registration Act, 1877."—An Act for the registration of Documents	46	72	85
Act No. IV of 1877.—"The Presidency Magistrates Act, 1877."—An Act to regulate the procedure and increase the jurisdiction of the Courts of Magistrates in the Presidency towns ...	99	189	281
Act No. V of 1877.—"The Straits Settlements Emigration Act, 1877."—An Act to regulate the emigration of Native labourers from the Presidency of Fort Saint George to the Straits Settlements	373	381	389
Act No. VI of 1877.—An Act for postponing the day on which the Opium Act, 1876, is to come into force	379	387	395
Act No. VII of 1877.—An Act to amend the law relating to Assignments from the General Provincial Fund established under the North-Western Provinces Local Rates Act, 1871	396	547	699
Act No. VIII of 1877.—"The North-Western Provinces License Act, 1877."—An Act for the licensing of certain trades and dealings in the North-Western Provinces	396	548	700
Act No. IX of 1877.—An Act to revive and amend Act No. XXIII of 1867	398	550	702
Act No. X of 1877.—"The Code of Civil Procedure."—An Act to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature	399	550	702
Act No. XI of 1877.—"The Military Lunatics Act, 1877."—An Act to facilitate the admission of Military Lunatics into Asylums	851	853	855
Act No. XII of 1877.—An Act to amend the Chutia Nagpur Encumbered Estates Act, 1876 ...	857	...	...
Act No. XIII of 1877.—"The Burma Embankment Act, 1877."—An Act to provide for the execution of works urgently required in connection with embankments in British Burma ...	857	...	...
Act No. XIV of 1877.—"The Broach and Kaira Incumbered Estates Act, 1877."—An Act to relieve from incumbrances the estates of Thakurs in Broach and Kaira	858	...	...

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	94a	...	...
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