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PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[First Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 14th March 1878; and having been assented to by the Governor-General on the 22nd January 1879, is hereby published for general information:—

ACT No. I OF 1879.

An Act to amend the procedure in suits between Landlords and Tenants in Chota Nagpore.

WHEREAS it is expedient to amend the procedure in suits between landlords and tenants in Chota Nagpore: It is enacted as follows:—

Preamble. It is enacted as follows:—

1. This Act may be called "The Chota Nagpore Landlord and Tenant Procedure Act;"

It extends to the territories for the time being under the administration of the Commissioner of the division, of Chota Nagpore, except the district of Manbhoom and the Tributary Méhals.

And it shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

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

"Civil Jail" includes the civil jail of the district, and any place appointed by the local Government for the confinement of prisoners under this Act.

"The Commissioner" and "Judicial Commissioner" mean respectively the Commissioner and Judicial Commissioner of Chota Nagpore.

"Deputy Collector" includes also an Assistant Commissioner.

"Nazir" means any officer of a Court authorized to serve or execute its process.

"Section" means a Section of this Act.

"Deputy Collector."

"Nazir" means any officer of a Court authorized to serve or execute its process.

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

3. On and from the commencement of this Act, the enactments specified in Schedule A hereto annexed shall be repealed to the extent mentioned in the third column of the said Schedule.

4. All suits or proceedings, of the nature provided for by this Act, which, before the commencement of this Act, shall have been instituted before any Deputy Commissioner or other officer having jurisdiction under any enactment hereby repealed, shall be heard and decided, so far as may be, under this Act.

5. Every ryot is entitled to receive, from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars:—

the quantity and boundaries of land; and where fields have been numbered in a Government survey, the number of each field; the amount of annual rent; the instalments in which the same is to be paid; any special conditions of the lease; and (if the rent is payable wholly or partially in kind), the proportion or quantity of produce to be delivered, and the time and manner of delivery.

6. Every ryot, who has cultivated or held land for a period of twelve years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does

not apply to the classes of lands locally known as majhahas, man, or saika; nor to khamar, nijjote, or seer land belonging to the proprietor of the estate or tenure, and let by him on lease for a term, or year by year.

The holding of the father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this section.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot, when it contains any express stipulation contrary thereto.

8. Ryots having rights of occupancy are entitled to receive pottahs at fair and equitable rates. In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in an enquiry under section 24.

9. Ryots not having rights of occupancy are entitled to pottahs only at such rates, and on such conditions, as may be agreed on between them and the persons to whom the rent is payable.

10. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah.

The tender to any ryot of a pottah, such as the ryot is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

11. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under this Act, whether as abwab or under any other pretext,

and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent,

shall be entitled to recover from the person receiving such rent, damages not exceeding double the amount so exacted or paid.

12. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

13. If any under-tenant or ryot shall, at the mal kutcherry for the receipt of rents, or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zemindar or other person in receipt of the rent of such land; and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, the under-tenant or ryot may, whether a suit shall have been instituted against him or not, within one month from the date of such tender, deposit

such amount, in the court of the Deputy Commissioner having jurisdiction to entertain a suit for such rent, to the credit of the zemindar or other person aforesaid;

and such deposit shall, so far as the under-tenant or ryot, and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of a payment then made by the under-tenant or ryot, of the amount deposited to the credit of such zemindar or other person.

14. The Deputy Commissioner shall receive such deposit on the written application of the under-tenant, or ryot, or his agent; and on the under-tenant, or ryot, or his agent, making a declaration in the form, or as nearly as circumstances will admit, in the form set forth in Schedule B hereto annexed, the Deputy Commissioner shall give a receipt for the same.

The Deputy Commissioner shall, within seven days from the date of the deposit, issue a notice to the person to whose credit it has been deposited, in the form set forth in Schedule C hereto annexed.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

15. Whenever such deposit shall have been made, no suit shall be brought against the person making the same or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted within six months from the date of the service of the notice mentioned in the last preceding section.

16. All zemindars and other landholders are prohibited from compelling the attendance of their tenants for the adjustment of their rents or for any other purpose, and from adopting any means of compulsion for enforcing payment of the rent due to them other than those authorized by this Act.

17. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

18. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section fifty-one, Regulation VIII, 1793, or in any other law, to the contrary notwithstanding.

19. No tenant of lands known as bhuinhari or khoddkatti shall be liable to any enhancement of the rent previously paid by him for such lands, unless it be shown that the tenure has been created within twenty years before the institution of the suit to enhance the rent of the said lands;

and where enhancement of the rent of such tenure is decreed, the rent assessed shall not exceed one half of the rent paid by an ordinary ryot with a right of occupancy on the same class of land with similar advantages.

20. No tenant of lands known as korkor, baebullah, khundwut, sujhwt, jalsasun, and ariat shall be liable to any enhancement of rent, except under the terms of a written contract; or in accordance with the general custom prevailing with respect to such lands in the village in which they are situated.

21. No other under-tenant or ryot having a right of occupancy shall be liable to any enhancement of the rent previously paid by him, otherwise than in the manner provided by the three next succeeding sections.

22. Any person wishing to enhance the rent previously paid to him by any such under-tenant or ryot may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such enhancement is sought, and (if necessary) to measure the same.

23. Such petition shall specify; the present rent of the under-tenant or ryot against whom the application is made;

the general rate prevailing in the village for different classes of lands;

the date (as nearly as it can be ascertained) when the rate was last adjusted in the village;

the rate which the applicant desires to demand; and

the grounds on which he considers that he is entitled to enhancement.

The provisions of sections 49 and 50 shall apply to all such applications.

24. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the under-tenant or ryot holding the land in respect of which enhancement is sought, and may (if necessary) order the same to be measured, and may upon consideration of all the circumstances set forth in the petition, and after hearing any objection which may be advanced against the proposed enhancement by the said under-tenant or ryot, fix such enhanced rent, or may otherwise alter or vary the rent for the said land as to him may seem fair and reasonable for such period, not being less than ten nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or ryot from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same.

Provided that nothing in this section shall be held to bar the right of the person to whom the rent of such under-tenant or ryot is payable to claim at any time an enhancement of the rent of such under-tenant or ryot under the provisions of section 22.

25. Any ryot may relinquish the land held or cultivated by him, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Rous of the year preceding that in which the relinquishment is to have effect.

26. When lands are held subject to any conditions or services other than or besides the payment of a rent in money, the tenant of such lands, or the person who has the right to receive the rents and services issuing from such lands, may apply in writing to the Deputy Commissioner for the commutation of all such conditions or services.

27. The Deputy Commissioner shall thereupon cause a notice to be served on each of the persons who, under the last preceding section, would have a right to make such application, and shall fix a date for considering the same; and on such date, or any date thereafter to which the hearing may be postponed, shall proceed to enquire into the matter, and to determine the amount of rent which in his judgment is fairly and equitably payable in commutation of the conditions or services to which such lands may be subject.

28. Any under-tenant or ryot having a right of occupancy, and wishing to claim an abatement of the rent previously paid by him, may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such abatement is sought, and (if necessary) to measure the same.

Such petition shall specify the particulars mentioned in section 23, and the grounds on which such under-tenant or ryot considers that he is entitled to such abatement.

The provisions of sections 49 and 50 shall apply to all such applications.

29. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the person to whom the rent of such under-tenant or ryot is payable, and may (if necessary) order the land to be measured, and may proceed as prescribed by section 24 to fix such abatement of rent, or may otherwise alter or vary the rent for the land of such under-tenant or ryot as to him may seem fair and reasonable for such period not being less than ten, nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or ryot from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same.

Provided that nothing in this section shall be held to bar the right of the person to whom the rent of such under-tenant or ryot is payable to claim at any time an abatement of the rent of such under-tenant or ryot under the provisions of section 22.

30. Any ryot may relinquish the land held or cultivated by him, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Rous of the year preceding that in which the relinquishment is to have effect.

to claim at any time an abatement of the rent previously paid by him under the provisions of section 27.

25. When lands are held subject to any conditions or services other than or besides the payment of a rent in money, the tenant of such lands, or the person who has the right to receive the rents and services issuing from such lands, may apply in writing to the Deputy Commissioner for the commutation of all such conditions or services.

26. The Deputy Commissioner shall thereupon cause a notice to be served on each of the persons who, under the last preceding section, would have a right to make such application, and shall fix a date for considering the same; and on such date, or any date thereafter to which the hearing may be postponed, shall proceed to enquire into the matter, and to determine the amount of rent which in his judgment is fairly and equitably payable in commutation of the conditions or services to which such lands may be subject.

27. Any under-tenant or ryot having a right of occupancy, and wishing to claim an abatement of the rent previously paid by him, may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such abatement is sought, and (if necessary) to measure the same.

Such petition shall specify the particulars mentioned in section 23, and the grounds on which such under-tenant or ryot considers that he is entitled to such abatement.

The provisions of sections 49 and 50 shall apply to all such applications.

28. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the person to whom the rent of such under-tenant or ryot is payable, and may (if necessary) order the land to be measured, and may proceed as prescribed by section 24 to fix such abatement of rent, or may otherwise alter or vary the rent for the land of such under-tenant or ryot as to him may seem fair and reasonable for such period not being less than ten, nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or ryot from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same.

Provided that nothing in this section shall be held to bar the right of the person to whom the rent of such under-tenant or ryot is payable to claim at any time an abatement of the rent of such under-tenant or ryot under the provisions of section 22.

29. Any ryot may relinquish the land held or cultivated by him, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Rous of the year preceding that in which the relinquishment is to have effect.

If he fails to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land or his agent refuses to receive any such notice, and to sign a receipt for the same, the ryot may make an application to the Deputy Commissioner, who shall thereupon cause the notice to be served on such person or his agent.

30. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there is no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and in the absence of any written agreement to the contrary, shall be liable to interest at six per centum per annum.

31. When an arrear of rent remains due from any ryot at the end of the Bengal or Sambat year, or at the end of the month of Jeth of the Fusly or Willayutee year, as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due, but only in execution of a decree or order passed under the provisions of this Act.

32. When an arrear of rent is adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled, and the leaseholder to be ejected. Provided that no such lease shall be cancelled, nor the leaseholder ejected, otherwise than in execution of a decree or order under the provisions of this Act.

33. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right to make a general survey or measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land,

or if any under-tenant or ryot, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land,

such person may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot.

If any under-tenant or ryot, after the issue of an order enjoining his attendance, neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

34. All dependent talookdars and other persons possessing a permanent heritable interest in land intermediate between the zemindar and the cultivator are required to register, in the sherishteh of the zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by succession or inheritance.

Every zemindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers.

Application for the registration of all such successions as may have occurred previously to the commencement of this Act shall be made within two years from the commencement thereof, and for future successions within one year from the date on which the succession occurred; and if such application be not made within the period herein specified, the zemindar or superior tenant may apply to the Deputy Commissioner to put him in possession of the talook or tenure.

On receipt of such application the Deputy Commissioner shall issue a notice to the talookdar or tenure-holder in possession, requiring him to register the transfer within three months from the receipt of the notice, and if he neglects or refuses so to register, the Deputy Commissioner may, on proof to his satisfaction being given of the service of the notice, put the zemindar or superior tenant aforesaid in possession of the talook or tenure.

35. The provisions of the last preceding section shall also be applicable to the sale of such under-tenures as are mentioned in section 123, and to the sale of the right and title of any person under section 124.

36. If any zemindar or superior tenant refuses to admit to registry or otherwise to give effect to any such transfer as is mentioned in the two last preceding sections, the transferee may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zemindar or superior tenant to admit to registry and otherwise give effect to such transfer.

Provided that no zemindar or superior tenant shall be required to admit to registry, or give effect to any division or distribution of the rent payable on account of any such tenures, nor shall any such division or distribution of rent be valid, without the consent in writing of the zemindar or superior tenant.

37. (1) All suits for the delivery of pottahs or kubooliyets, or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered;

(2) all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent;

(4) all suits for arrears of rent due on account of land either rent-paying or rent-free, or on account of any rights of pasturage, forest-rights, fisheries, or the like;

(5) all suits to eject any ryot, or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejection, or a lease may be liable to be cancelled;

(6) all suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same;

(7) all suits by zemindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession;

shall be cognizable by the Deputy Commissioners, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other court, except in the way of appeal as provided in this Act.

38. The Deputy Commissioner may, with the consent of the parties, refer any suit under this Act to arbitration, and the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure shall, as far as may be practicable, apply to such references.

39. In every suit under this Act, of the nature of those specified in the first, second, third, or fourth clauses of section 37, and in applications for enhancement, abatement or measurement under sections 22, 27 or 33, any number of ryots or other tenants may sue or be sued collectively, and it shall be no ground for dismissing the suit or refusing to hear the application that such ryots or other tenants are wrongly joined as plaintiffs or defendants, provided that all such ryots or other tenants hold land in the same village;

but no order shall be passed in such case, unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if at any time it shall appear to the Deputy Commissioner that the question between any two of the parties, of whom one is so joined with others, cannot conveniently be so jointly tried, the Deputy Commissioner may order a separate trial to be held.

40. Every order passed in any such case as is mentioned in the first clause of the last preceding section shall specify the extent to which each of the ryots or other tenants named in the order shall be affected thereby.

41. All suits which, under this Act, may be brought by or against zemindars or other persons in the receipt of the rent of land, may be brought by or against surburakars or talsildars of estates held khas, whether such estates are the property of Government or of individuals.

42. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

43. Suits for the delivery of pottahs or kubooliyets, and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

44. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal or Sambat year, or from the last day of the month of Jeth of the Fusly or Willayutee year, in which the arrear claimed shall have become due.

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent not having been enhanced by the Deputy Commissioner under this Act, the suit shall be instituted within three months from the end of the Bengal or Sambat year, or of the month of Jeth of the Fusly or Willayutee year, on account of which such enhanced rent is claimed.

45. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent.

Provided that, if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

46. Suits under this Act shall be instituted by presenting to the Deputy Commissioner a plaint or statement of claim which shall contain the name, description, and place of abode of the plaintiff, the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance of the claim; and the date of the cause of action.

47. If the suit is for the recovery of an arrear of rent, the statement of claim shall specify the name of the village and estate; the name of the pergunnah or other local division in which the land is situated; (if the arrear is alleged to be due from any ryot), the quantity of land, (where fields have been numbered in a Government survey), the number of each field; the yearly rent of the land; the amount (if any) received on account of the year for which the claim is made;

the amount in arrear; and the time in respect of which it is alleged to be due.

48. If the suit is for the ejectment of a ryot, farmer, or tenant from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure, the statement of claim shall specify (as circumstances may require) the extent, situation, and designation of the same, and (if necessary for the identification of the land), the boundaries of such land.

49. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

50. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:—

I, A. B., do declare that the above statement is true to the best of my knowledge and belief.

51. If the plaintiff relies in support of his claim on any document in his possession, he shall deliver the same to the Deputy Commissioner at the time of presenting his statement of claim.

Unless such document be delivered or its non-production be sufficiently excused, or unless the Deputy Commissioner see fit to extend the time for producing the same, it shall not afterwards be admitted.

52. If the plaintiff requires the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Deputy Commissioner a description of the document in order that the defendant may be required to produce the same.

53. If the statement of claim does not contain the several particulars hereinbefore required to be specified therein, or is not subscribed and verified as hereinbefore required, the Deputy Commissioner may return the statement to the plaintiff, or at his discretion allow it to be amended.

54. If the statement of claim is in proper form, the Deputy Commissioner, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff requires the personal attendance of the defendant, and satisfies the Deputy Commissioner that such personal attendance is necessary, or the Deputy Commissioner of his own accord requires such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

55. The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be or be supposed to be at the time from the place where the court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process, and shall be in the form contained in Schedule D hereto annexed, or to the like effect.

56. The amount of the cost of serving the summons, or, if a warrant is issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Deputy Commissioner.

If the said amount be not so deposited the case shall not be brought on the file of suits: but in such case the plaintiff may present another plaint at any time within the period prescribed by this Act for the limitation of suits.

57. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant.

When such application is presented, the Deputy Commissioner shall examine the plaintiff or his agent, according to the law for the time being in force for the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *prima facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Deputy Commissioner may issue a warrant for the arrest of the defendant.

The Deputy Commissioner shall fix a reasonable time for the return of the warrant, which shall be in the form contained in the Schedule E hereto annexed, or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant, which shall be in the form in the Schedule F hereto annexed, or to the like effect, containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent talook or other transferable tenure which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

58. If the defendant is arrested under the warrant of arrest, he shall be brought with all convenient speed before the Deputy Commissioner, and the Deputy Commissioner shall commit him to custody, unless he deposits in court such sum as may be specified in the notice.

59. When the defendant is brought before the Deputy Commissioner under warrant, the Deputy Commissioner shall with all convenient speed proceed to try the case in the manner hereinafter provided; if the suit cannot be at once adjudicated, the Deputy Commissioner may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail to be there detained until he shall furnish such security, or deposit such sum as the Deputy Commissioner shall order.

The security bond shall be in the form contained in Schedule G hereto annexed, or to the like effect.

60. If the defendant cannot be arrested under the warrant, the Deputy Commissioner, on the application of the plaintiff, shall either postpone the case, for such period as he may think proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed to his own office and to the residence of the defendant appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant appears in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

61. If it appears to the Deputy Commissioner that the arrest of the defendant was applied for without reasonable cause, the Deputy Commissioner may in his decree award to the defendant such sum, not exceeding one hundred rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

62. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be postponed prior to the recording of an issue for trial as hereinafter provided, neither of the parties appears in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the provisions for the limitation of suits contained in this Act.

63. If on any such day the defendant only appears, the Deputy Commissioner shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Deputy Com-

missioner shall proceed to give judgment for the plaintiff upon such admission without costs; provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

64. If on any such day the plaintiff only appears, the Deputy Commissioner, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case, or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

65. If the defendant appears on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Deputy Commissioner may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

66. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff within fifteen days from the date of the Deputy Commissioner's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the opposite party to appear and be heard in support of it.

67. In all cases in which the Deputy Commissioner shall pass an order for setting aside a judgment, the order shall be final; but in all appealable cases in which the Deputy Commissioner shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable; provided that the appeal be preferred within the time allowed for an appeal from such final decision.

68. When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Deputy Commissioner, the Deputy Commissioner shall proceed to examine them, and either party or his agent may cross-examine the other.

If either of the parties is not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence. Such statement shall be verified in the manner prescribed in section 50.

69. The examination of the parties or their agents, or such other persons as aforesaid, shall be conducted according to the law for the time being in force for the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Deputy Commissioner and filed with the record.

Provided that all examinations of parties and witnesses may be recorded in English, if the Deputy Commissioner be sufficiently acquainted with that language.

70. If either of the parties brings forward a witness on the day aforesaid, the Deputy Commissioner may take the evidence of such witness.

71. If the defendant relies on any document in support of his defence, he shall deliver the same into court at the first hearing of the suit; and unless such document is so delivered in, or its non-production is sufficiently excused, or unless the Deputy Commissioner sees fit to extend the time for producing the same, it shall not afterwards be admitted.

72. If after the examination required by section 68, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Deputy Commissioner shall make a decree accordingly.

73. If, on such examination as aforesaid, the agent of either party is unable to answer any material question relating to the case, which the Deputy Commissioner 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 Deputy Commissioner may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day;

and if the party so directed to attend fails to appear in person on the day appointed, the Deputy Commissioner may pass judgment as in case of default, or make such other order as he may deem proper under the circumstances of the case.

74. If, on such examination as aforesaid, it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Deputy Commissioner shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit;

and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

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

76. The provisions of the Code of Civil Procedure relating to the attendance and examination of witnesses and the production of documents, and to the remuneration and punishment of witnesses, shall, so far as they are consistent with this Act, apply to all suits under this Act.

77. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 62.

If on any such day one only of the parties appears, the issue may be tried and determined in the absence of the other party, upon such proof as may be then before the court.

78. When suits under this Act are instituted or defended by naibs, gomastahs, or other persons employed in the collection of rent, or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such naibs, gomastahs, or other persons; and anything which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act, relative to the service of processes on a party to the suit, shall be applicable to the service of processes on such person.

79. A plaintiff or defendant shall not be required to attend in person if of the female sex, and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

80. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the court.

81. The Deputy Commissioner may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence respectively of a suit, and may also from time to time, in order to the production of further proof, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

82. The Deputy Commissioner may at any stage of a suit cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force, relative to local enquiries by amins or commissioners under orders of the civil courts, shall apply to any local enquiry made by any officer under this section, and, so far as they are applicable, to enquiries made by the Deputy Commissioner in person.

In the latter case, the Deputy Commissioner, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

83. The defendant in any suit under this Act may, if he has duly tendered the same to the plaintiff before the institution of the suit, pay into court such sum of money as he may consider due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of court to the plaintiff.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into court, the defendant shall be charged with the whole costs of the suit.

84. The defendant in any suit under this Act may, without having made any tender before action brought, pay into court such sum of money as he may consider due to the plaintiff, together with the costs (to be fixed by the court if necessary as upon a suit originally instituted for the amount so paid into court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of court to the plaintiff.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but if the plaintiff ultimately recovers a further sum than shall have been paid into court, the defendant shall be charged with

costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

85. No interest shall be allowed to the plaintiff on any sum paid by the defendant into court from the date of such payment, whether such sum be in full of his claim, or fall short thereof.

86. If on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy the parties do not agree as to the term for which the pottah is to be granted, the Deputy Commissioner shall fix such term as under the circumstances of the case he may think just and proper.

Provided that the term shall not in any case be longer than twenty years, and in estates not permanently settled, shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

87. When in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person, on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such inquiry.

Provided that the decision of the Deputy Commissioner shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in a civil court, if instituted within one year from the date of the decision.

88. Any person desiring to eject a ryot, or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear; and if such amount, together with interest and costs of suit, be paid into court within fifteen days from the date of the decree, execution shall be stayed.

89. The Deputy-Commissioner shall pronounce judgment in open court. Judgment how to be pronounced. The judgment shall be written in the vernacular language of the Deputy Commissioner, and shall contain the reasons for the same, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced.

Provided that any judgment may be written in English, if the Deputy Commissioner be sufficiently acquainted with the English language.

90. In any suit for rent under this Act, if it appears to the court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due from him,

and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Deputy Commissioner before the institution of the suit in manner hereinbefore mentioned,

the court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as the court may think fit;

and such damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest from the date of decree until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable.

91. In any suit for rent under this Act, if it appears to the court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause,

or that the defendant, before the institution of the suit, duly deposited with the Deputy Commissioner in the manner hereinafter mentioned the full amount which the court shall find to have been due to the plaintiff at the date of such deposit,

the court may award to the defendant by way of compensation such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as the court may think fit;

and such sum, with interest until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under this Act.

92. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuses or delays to grant the same, the Deputy Commissioner may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

93. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet refuses to execute the same, he decree shall be evidence of the amount

of rent claimable from such person, and a copy of the decree under the hand and seal of the Deputy Commissioner shall be of the same force and effect as a kubooliyet executed by the said person.

94. If the decree is for the ejectment of any ryot from land occupied by him, or for the reinstatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Deputy Commissioner, in the exercise of his powers as a Magistrate, shall give effect to the same.

95. If the decree is for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the reinstatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum, or in such other manner as may be customary, and affixing the same in some conspicuous place within, or adjacent to, the farm or tenure.

96. If the decree is for arrears of rent, or for money, papers, or accounts, and the defendant has been committed to jail, or appears pursuant to the conditions of any security-bond given under section 59, the Deputy Commissioner may order that he be detained in, or committed to, the civil jail, unless he immediately pay into court the amount of the decree with costs, or otherwise comply with the terms of the decree.

97. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due from the debtor had been passed against the surety.

If the decree is for the delivery of papers or accounts, and the defendant is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

98. The provisions relating to attachment before judgment, contained in the Code of Civil Procedure, are hereby extended to all suits under this Act.

99. Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not

be issued simultaneously against both person and property.

Process of execution against the person or moveable property of a debtor shall be in the form contained in Schedule H or I hereto annexed, or to the like effect.

100. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process, by the creditor or his agent.

101. Every warrant of execution shall bear date on the day on which it is signed by the Deputy Commissioner, and shall continue in force for such period as the Deputy Commissioner may direct, not being more than sixty days from such date.

102. Second and successive warrants of execution may be issued by order of the Deputy Commissioner on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

103. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

104. Execution on a judgment shall not issue against the heir or other representative of a deceased party, without notice to such heir or other representative to appear and be heard.

105. No process of execution of any description whatsoever shall be issued on a judgment under this Act, unless an application be made within three years from the date of such judgment.

106. If a warrant is issued for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Deputy Commissioner.

If such person does not then deposit in court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Deputy Commissioner that he has no present means of paying the debt, the Deputy Commissioner shall send him to the civil jail, there to remain for such time as shall be directed, by a warrant addressed to the keeper of the jail, unless he shall in the mean time pay the full amount for the payment of which he is liable under the decree.

Provided that no person shall be imprisoned in execution of a decree under this Act for a longer period than six months;

or for a longer period than six weeks, if the decree is for the payment of a sum of money not exceeding fifty rupees.

If the decree against any person arrested under a warrant is for the delivery of papers or accounts, and the papers or accounts are not delivered by him when he is brought before the Deputy Commissioner, such person may be committed to the civil jail, there to remain for such time, not exceeding six months, as the Deputy Commissioner shall direct, unless he shall in the mean time deliver the papers or accounts according to the terms of the decree.

107. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

If the amount due under the decree does not exceed fifty rupees, the Deputy Commissioner may declare such discharged person absolved from liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt property belonging to such person from attachment in execution of the same.

108. Any person applying for a warrant of arrest under section 57, or suing out process of execution against the body of any person, shall deposit in court, at the time of issue of the warrant, diet-money for thirty days at such rate as the Deputy Commissioner may direct.

109. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

110. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

111. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Deputy Commissioner and shall be affixed in his office.

Until the day of sale, the said property shall remain in the custody of the officer attaching the same.

112. The sale shall be held at the place where the property is deposited, or at the nearest gunge, bazar, haat, or other place of public resort, if the officer holding the sale is of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale may think advisable; and if the judgment-debt with the costs of the execution and sale is satisfied by the sale of a portion of the property, the execution shall be immediately withdrawn with respect to the remainder.

113. If on the property being put up for sale a fair price, in the estimation of the officer holding the sale, is not offered for it, and the owner of the property, or some person authorized to act on his behalf, applies to have the sale postponed until the next day, or the next market day, if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered for the property.

114. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the officer holding the sale shall think necessary; and in default of such payment, the property shall be put up again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

115. From the proceeds of the sale of the property, the officer holding the sale shall make a deduction, at the rate of one anna in the rupee, on account of the costs of the sale, and shall transmit the amount to the Deputy Commissioner in order that it may be credited to Government.

The said officer shall then pay to the judgment-creditor the expenses incurred by the judgment-creditor on account of the preparation of the list, and of the publication of the proclamation of sale prescribed in section 111, to such amount as, after examination of the statement of expenses furnished by the judgment-creditor, he thinks proper to allow.

The remainder shall be applied to the discharge of the debt for which the sale was made, with interest thereon up to the day of sale, and if there be any surplus, it shall be delivered to the person whose property has been sold.

116. Officers holding sales of property under this Act, and all persons employed by, or subordinate to such officers, are prohibited from purchasing either directly or indirectly any property sold by such officers.

117. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken.

118. If before the day fixed for the sale, a third party appears before the Deputy Commissioner, and claims a right or interest in any of the moveable property taken in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witnesses, and if he see sufficient

reason for so doing, may stay the sale of such property.

119. The Deputy Commissioner shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and defendant in the original suit, as shall to him seem fit.

In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as they may be applicable.

120. If the claimant fails to establish his right to the property taken in execution, the Deputy Commissioner at the time of disposing of the case may award to the judgment-creditor against such claimant, as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

121. No appeal shall lie from any order passed by the Deputy Commissioner under the last two preceding sections.

But the party against whom the same may be given shall be at liberty to bring a suit in the civil court to establish his right at any time within one year from the date of the order;

provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but for damages against the judgment-creditor by whom the property was brought to sale.

122. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale; but nothing contained in this section shall be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court; provided such action be brought within one year from the date of sale.

123. If the decree is for an arrear of rent due in respect of an under-tenure, which, by the title-deeds, or the custom of the country, is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and, with the sanction of the Commissioner, but not otherwise, the tenure may thereupon be brought to sale in execution of the decree, according to the provisions for the sale of under-tenures contained in Bengal Act VIII of 1865.

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immovable, belonging to the debtor, and any such immovable property may be brought to sale in the manner provided in section 129.

124. No under-tenure which is held conditionally on the survival of heirs male of the grantee, and which, on failure of such heirs, reverts to the grantor free of all encumbrances made subsequent to the date of the grant, shall be sold under this Act.

Provided that the right and title of any person in such tenure may be sold with the sanction of the Commissioner.

125. If before the day fixed for the sale of any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124,

a third party appears before the Deputy Commissioner and alleges that such third party, and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained,

the Deputy Commissioner shall examine such party in the manner provided in section 118; and if he sees sufficient reason for so doing, and such party deposits in court the amount of the decree, or gives sufficient security for the same, the Deputy Commissioner shall stay the sale and proceed to enquire into and adjudicate upon the claim.

Provided that no transfer of an under-tenure, which, by the provisions of this Act or any other law for the time being in force, is required to be registered in the sherishtah of the zemindar or superior tenant, shall be recognized, unless it has been so registered, or unless sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner.

126. In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as the same may be applicable, and the judgment passed by the Deputy Commissioner on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the civil court to establish his right, at any time within one year from the date of the judgment.

127. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate, talook, or tenure, application for the sale of such under-tenure shall not be received, unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case the under-tenure, if of the nature described in section 123, and not of the nature described in section 124, may, with the sanction of the Commissioner, but not otherwise, be brought to sale in execution of the decree in the same manner as any other immovable property may be sold in execution of a decree for money under the provisions of the next two succeeding sections.

128. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, or of a tenure the right and title in which is saleable, if

satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immovable property belonging to such debtor, and such immovable property may, with the sanction of the Commissioner, but not otherwise, be brought to sale in the manner described in the next succeeding section.

129. If the immovable property against which execution is applied for is a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 111 to 117 (both inclusive) shall, so far as may be practicable, be applicable to the execution of such process.

If the property is a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

If the property is an estate, or a share of an estate, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

130. If, before the day fixed for the sale of any immovable property as aforesaid, objection is offered to the sale on the ground of such property not belonging to the judgment-debtor, the Deputy Commissioner shall examine the party making the objection in the manner prescribed in section 118, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 126.

131. Every process issued by a Deputy Commissioner under this Act shall be under the seal and signature of the Deputy Commissioner, and shall be served or executed by the Nazir, or by such other officer as the Deputy Commissioner may direct, at the cost of the party at whose instance it issued.

132. The Deputy Commissioner may hold a court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction, provided that every hearing and decision shall be in open court, and that the

parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

133. All the powers conferred on the Deputy Commissioner by this Act may be exercised by any Deputy Collector in cases referred to him by a Deputy Commissioner; and in all cases without such reference, by any Deputy Collector placed in charge of any sub-division of a district, or specially authorized by the local Government to receive such cases;

and all applications and reports allowed or required by this Act to be made to the Deputy Commissioner may be made to any Deputy Collector having such local jurisdiction, or specially authorized as aforesaid.

134. In the performance of their duties under this Act, the Deputy Commissioners and Deputy Collectors shall be subject to the general direction and control of the Commissioner and the Board of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Deputy Commissioner to whom they are subordinate.

135. All orders passed by a Deputy Commissioner under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner, and all such orders passed by a Deputy Collector shall be appealable to the Deputy Commissioner;

but no judgment of a Deputy Commissioner or Deputy Collector in any suit, and no order of a Deputy Commissioner or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

136. Every appeal against the order of a Deputy Commissioner shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Deputy Commissioner within fifteen days, from the date of the order.

Orders passed in appeal by a Commissioner or a Deputy Commissioner shall not be open to any further appeal; but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

137. In suits under clauses two, four and seven of section 37, tried and decided by a Deputy Commissioner, if the amount sued for, or the value of the property claimed does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in section 144.

138. In suits in which the judgment of the Deputy Commissioner is final, as provided in the last preceding section, the Deputy Commissioner may, upon the application of either party, if made within thirty days from the date of the decision, order the rehearing of a suit upon the ground of the discovery of new evidence, or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

139. When any such suit as aforesaid, in which, if tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Deputy Commissioner.

140. The petition of appeal shall be presented to the Deputy Commissioner within fifteen days from the date of decree provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

141. The Deputy Commissioner shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent.

If on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant appears, and the respondent does not appear in person or by an agent, the appeal shall be heard *ex parte*.

142. If an appeal is dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Deputy Commissioner for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Deputy Commissioner that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner may re-admit the appeal.

143. After hearing the appeal, the Deputy Commissioner shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Deputy Commissioner shall be final.

144. In all suits other than those in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Deputy Commissioner, an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner of the Division, unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the High Court.

145. Appeals to the Judicial Commissioner or to the High Court under this Act shall be presented within the time prescribed

for the presentation of appeals to a District Judge or to the High Court under the Code of Civil Procedure by the law for the time being in force for the limitation of appeals.

146. Suits under this Act shall be preferred in the Revenue Office of the district; or, when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the sub-division in which the cause of action shall have arisen;

or, when the cause of action has arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a sub-division, but who has been specially authorized by the local Government to receive such suits, then in the office of such last-mentioned Deputy Collector.

Provided that the Deputy Commissioner may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

147. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, the district or sub-division in which the greater part of such lands is situated shall be held to be the district or sub-division in which the cause of action has arisen;

and if any question shall be raised respecting the district or sub-division in which the greater part of the lands is situated, the Board of Revenue, or if all the lands are situated in one district, the Deputy Commissioner of the district, shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

148. Except as provided in the last preceding section, no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any lands situated beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate, the revenue of which is paid into the treasury of the said district.

149. Every notice or summons in and by this Act required to be served on any person may be served.

(1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides;

or by delivering the said notice or summons to a general agent of the person to whom such notice or summons is directed, or to any person who has been appointed in that behalf; or

(2) by sending a registered letter containing such notice or summons directed to the said person at his usual place of abode; or (3) or, if no such place of abode can be found, and if the notice or summons cannot be served in any of the other modes mentioned in this section, by posting the same at the bhandhar of the village or holding to which the notice or summons relates.

150. Nothing contained in this Act shall be held to affect the provisions of Bengal Act II of 1869, or of Bengal Act VI of 1876.

SCHEDULE A.

(See Section 3.)

Being Acts repealed in the territories to which this Act extends.

DATE AND NO. OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
Act X of 1859	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.
Act VI of 1863, passed by the Lieutenant-Governor of Bengal in Council.	An Act to amend Act X of 1859.	The whole Act.
Act IV of 1867, passed by the Lieutenant-Governor of Bengal in Council.	An Act to explain and amend Act VI of 1863, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.

SCHEDULE B.*

(See Section 14.)

I, A. B., of &c., do solemnly declare that I did personally (or by my agent C. D.) on the day of tender payment to E. F., at his mal-kutcherry (or at) the place where the rent of the lands at held or cultivated by me under or from the said E. F., are usually payable, of the sum of Rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of , both inclusive. I further declare that the said E. F. refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same). And I do declare that to the best of my belief, the sum of Rupees so tendered and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of to the month of , both inclusive, and that I owe the said E. F. no further sum on account of the rent of the said lands.

SCHEDULE C.†

(See Section 14.)

Court of the Deputy Commissioner of

Dated the day of 18 .
To E. F. of &c.

With reference to the within declaration, you are hereby informed that the sum of Rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said A. B. in respect of the

* If this declaration is made by an agent it must be altered accordingly.
† This is to be by endorsement on a copy of the Declaration under Schedule B made by the person paying the money into Court.

rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date; otherwise your claim will be for ever barred.

SCHEDULE D.

(See Section 55.)

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated
In the Court of
A. B., Plaintiff.
[Name, description, and address of plaintiff.]
C. D., Defendant.
[Name, description, and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for [here specify particulars of claim as given in the statement] you are hereby required to appear in person in this Court on the day of [if not specially required to appear in person, state "in person or by an agent who has personal knowledge of the subject, or who shall be accompanied by a person who has such knowledge"] to answer the abovenamed plaintiff, 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 all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

SCHEDULE E.

(See Section 57.)

FORM OF WARRANT OF ARREST.

No. (of suit) dated
In the Court of
A. B., Plaintiff.
C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 187

SCHEDULE F.

(See Section 57.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of
A. B., Plaintiff.
[Name, description, and address of plaintiff.]
C. D., Defendant.
[Name, description, and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for (here specify particulars of claim as given in the statement) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

SCHEDULE G.

(See Section 59.)

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Deputy Commissioner of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Deputy Commissioner.

SCHEDULE H.

(See Section 99.)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.
C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas the said C. D. was directed by a decree of this Court, under date the day of 187, to pay to A. B. the sum of and for costs of suit, amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law.

SCHEDULE I.

(See Section 99.)

WRIT OF EXECUTION AGAINST THE MOVEABLE PROPERTY.

A. B., Plaintiff.
C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas C. D. was directed by a decree of this Court, under date the day of 187, to pay to A. B. the sum of and for costs of suit, amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of, and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [if no list is furnished, these words to be omitted] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D. on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

FREDERICK CLARKE,
Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, FEBRUARY 12, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 14th March 1878; and having been assented to by the Governor-General on the 22nd January 1879, is hereby published for general information:—

ACT No. I OF 1879.

An Act to amend the procedure in suits between Landlords and Tenants in Chota Nagpore.

WHEREAS it is expedient to amend the procedure in suits between landlords and tenants in Chota Nagpore: It is enacted as follows:—

1. This Act may be called "The Chota Nagpore Landlord and Tenant Procedure Act;"

It extends to the territories for the time being under the administration of the Commissioner of the division of Chota Nagpore, except the district of Manbhoom and the Tributary Mehals.

And it shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

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

"Civil Jail" includes the civil jail of the district, and any place appointed by the local Government for the confinement of prisoners under this Act.

"The Commissioner" and "Judicial Commissioner" mean respectively the Commissioner and Judicial Commissioner of Chota Nagpore.

"Deputy Collector." "Deputy Collector" includes also an Assistant Commissioner.

"Nazir" means any officer of a Court authorized to serve or execute its process.

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

3. On and from the commencement of this Act, the enactments specified in Schedule A hereto annexed shall be repealed to the extent mentioned in the third column of the said Schedule.

4. All suits or proceedings, of the nature provided for by this Act, which, before the commencement of this Act, shall have been instituted before any Deputy Commissioner or other officer having jurisdiction under any enactment hereby repealed, shall be heard and decided, so far as may be, under this Act.

5. Every ryot is entitled to receive, from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars:—

the quantity and boundaries of land; and where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent; the instalments in which the same is to be paid; any special conditions of the lease; and (if the rent is payable wholly or partially in kind), the proportion or quantity of produce to be delivered, and the time and manner of delivery.

6. Every ryot, who has cultivated or held land for a period of years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to land for twelve years.

Right of occupancy of land for a period of years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to land for twelve years.

Every ryot, who has cultivated or held land for a period of years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to land for twelve years.

Every ryot, who has cultivated or held land for a period of years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to land for twelve years.

not apply to the classes of lands locally known as majhahas, man, or saika; nor to khamar, nijjote, or seer land belonging to the proprietor of the estate or tenure, and let by him on lease for a term, or year by year.

The holding of the father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this section.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot, when it contains any express stipulation contrary thereto.

8. Ryots having rights of occupancy are entitled to receive pottahs at fair and equitable rates. In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in an enquiry under section 24.

9. Ryots not having rights of occupancy are entitled to pottahs only at such rates, and on such conditions, as may be agreed on between them and the persons to whom the rent is payable.

10. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah.

The tender to any ryot of a pottah, such as the ryot is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

11. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent, damages not exceeding double the amount so exacted or paid.

12. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

13. If any under-tenant or ryot shall, at the mal kutcherry for the receipt of rents, or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zemindar or other person in receipt of the rent of such land; and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, the under-tenant or ryot may, whether a suit shall have been instituted against him or not, within one month from the date of such tender, deposit

such amount, in the court of the Deputy Commissioner having jurisdiction to entertain a suit for such rent, to the credit of the zemindar or other person aforesaid;

and such deposit shall, so far as the under-tenant or ryot, and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of a payment then made by the under-tenant or ryot, of the amount deposited to the credit of such zemindar or other person.

14. The Deputy Commissioner shall receive such deposit on the written application of the under-tenant, or ryot, or his agent; and on the under-tenant, or ryot, or his agent, making a declaration in the form, or as nearly as circumstances will admit, in the form set forth in Schedule B hereto annexed, the Deputy Commissioner shall give a receipt for the same.

The Deputy Commissioner shall, within seven days from the date of the deposit, issue a notice to the person to whose credit it has been deposited, in the form set forth in Schedule C hereto annexed.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

15. Whenever such deposit shall have been made, no suit shall be brought against the person making the same or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted within six months from the date of the service of the notice mentioned in the last preceding section.

16. All zemindars and other landholders are prohibited from compelling the attendance of their tenants for the adjustment of their rents or for any other purpose, and from adopting any means of compulsion for enforcing payment of the rent due to them other than those authorized by this Act.

17. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

18. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section fifty-one, Regulation VIII, 1793, or in any other law, to the contrary notwithstanding.

19. No tenant of lands known as bhuinhari or khoodkatti shall be liable to any enhancement of the rent previously paid by him for such lands, unless it be shown that the tenure has been created within twenty years before the institution of the suit to enhance the rent of the said lands;

and where enhancement of the rent of such tenure is decreed, the rent assessed shall not exceed one-half of the rent paid by an ordinary ryot with a right of occupancy on the same class of land with similar advantages.

20. No tenant of lands known as korkor, baee-bullah, khundwut, sujhwut, jalsasun, and ariat shall be liable to any enhancement of rent, except under the terms of a written contract, or in accordance with the general custom prevailing with respect to such lands in the village in which they are situated.

21. No other under-tenant or ryot having a right of occupancy shall be liable to any enhancement of the rent previously paid by him, otherwise than in the manner provided by the three next succeeding sections.

22. Any person wishing to enhance the rent previously paid to him by any such under-tenant or ryot may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such enhancement is sought, and (if necessary) to measure the same.

23. Such petition shall specify; the present rent of the under-tenant or ryot against whom the application is made; the general rate prevailing in the village for different classes of lands; the date (as nearly as it can be ascertained) when the rate was last adjusted in the village; the rate which the applicant desires to demand; and the grounds on which he considers that he is entitled to enhancement.

The provisions of sections 49 and 50 shall apply to all such applications.

24. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the under-tenant or ryot holding the land in respect of which enhancement is sought, and may (if necessary) order the same to be measured, and may upon consideration of all the circumstances set forth in the petition, and after hearing any objection which may be advanced against the proposed enhancement by the said under-tenant or ryot, fix such enhanced rent, or may otherwise alter or vary the rent for the said land as to him may seem fair and reasonable for such period, not being less than ten nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or ryot from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same.

Provided that nothing in this section shall be held to bar the right of such under-tenant or ryot

to claim at any time an abatement of the rent previously paid by him under the provisions of section 27.

25. When lands are held subject to any conditions or services other than or besides the payment of a rent in money, the tenant of such lands, or the person who has the right to receive the rents and services issuing from such lands, may apply in writing to the Deputy Commissioner for the commutation of all such conditions or services.

26. The Deputy Commissioner shall thereupon cause a notice to be served on each of the persons who, under the last preceding section, would have a right to make such application, and shall fix a date for considering the same; and on such date, or any date thereafter to which the hearing may be postponed, shall proceed to enquire into the matter, and to determine the amount of rent which in his judgment is fairly and equitably payable in commutation of the conditions or services to which such lands may be subject.

27. Any under-tenant or ryot having a right of occupancy, and wishing to claim an abatement of the rent previously paid by him, may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such abatement is sought, and (if necessary) to measure the same.

Such petition shall specify the particulars mentioned in section 23, and the grounds on which such under-tenant or ryot considers that he is entitled to such abatement.

The provisions of sections 49 and 50 shall apply to all such applications.

28. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the person to whom the rent of such under-tenant or ryot is payable, and may (if necessary) order the land to be measured, and may proceed as prescribed by section 24 to fix such abatement of rent, or may otherwise alter or vary the rent for the land of such under-tenant or ryot as to him may seem fair and reasonable for such period not being less than ten, nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or ryot from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same.

Provided that nothing in this section shall be held to bar the right of the person to whom the rent of such under-tenant or ryot is payable to claim at any time an enhancement of the rent of such under-tenant or ryot under the provisions of section 22.

29. Any ryot may relinquish the land held or cultivated by him, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Pous of the year preceding that in which the relinquishment is to have effect.

If he fails to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land or his agent refuses to receive any such notice and to sign a receipt for the same, the ryot may make an application to the Deputy Commissioner, who shall thereupon cause the notice to be served on such person or his agent.

30. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there is no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and in the absence of any written agreement to the contrary, shall be liable to interest at six per centum per annum.

31. When an arrear of rent remains due from any ryot at the end of the Bengal or Sambut year, or at the end of the month of Jeth of the Fusly or Willayutee year, as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due, but only in execution of a decree or order passed under the provisions of this Act.

32. When an arrear of rent is adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled, and the leaseholder to be ejected.

Provided that no such lease shall be cancelled, nor the leaseholder ejected, otherwise than in execution of a decree or order under the provisions of this Act.

33. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right to make a general survey or measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land,

or if any under-tenant or ryot, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land,

such person may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot.

If any under-tenant or ryot, after the issue of an order enjoining his attendance, neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

34. All dependent talookdars and other persons possessing a permanent heritable interest in land intermediate between the zemindar and the cultivator are required to register, in the sherishteh of the zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by succession or inheritance.

Every zemindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers.

Application for the registration of all such successions as may have occurred previously to the commencement of this Act shall be made within two years from the commencement thereof, and for future successions within one year from the date on which the succession occurred: and if such application be not made within the period herein specified, the zemindar or superior tenant may apply to the Deputy Commissioner to put him in possession of the talook or tenure.

On receipt of such application the Deputy Commissioner shall issue a notice to the talookdar or tenure-holder in possession, requiring him to register the transfer within three months from the receipt of the notice, and if he neglects or refuses so to register, the Deputy Commissioner may, on proof to his satisfaction being given of the service of the notice, put the zemindar or superior tenant aforesaid in possession of the talook or tenure.

35. The provisions of the last preceding section shall also be applicable to the sale of such under-tenures as are mentioned in section 123, and to the sale of the right and title of any person under section 124.

36. If any zemindar or superior tenant refuses to admit to registry or otherwise to give effect to any such transfer as is mentioned in the two last preceding sections, the transferee may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zemindar or superior tenant to admit to registry and otherwise give effect to such transfer.

Provided that no zemindar or superior tenant shall be required to admit to registry, or give effect to any division or distribution of the rent payable on account of any such tenures, nor shall any such division or distribution of rent be valid, without the consent in writing of the zemindar or superior tenant.

37. (1) All suits for the delivery of pottahs or kubooliyets, or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered;

(2) all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent;

(4) all suits for arrears of rent due on account of land either rent-paying or rent-free, or on account of any rights of pasturage, forest-rights, fisheries, or the like;

(5) all suits to eject any ryot, or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejectment, or a lease may be liable to be cancelled;

(6) all suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same;

(7) all suits by zemindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession;

shall be cognizable by the Deputy Commissioners, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other court, except in the way of appeal as provided in this Act.

38. The Deputy Commissioner may, with the consent of the parties, refer any suit under this Act to arbitration, and the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure shall, as far as may be practicable, apply to such references.

39. In every suit under this Act, of the nature of those specified in the first, second, third, or fourth clauses of section 37, and in applications for enhancement, abatement or measurement under sections 22, 27 or 33, any number of ryots or other tenants may sue or be sued collectively, and it shall be no ground for dismissing the suit or refusing to hear the application that such ryots or other tenants are wrongly joined as plaintiffs or defendants, provided that all such ryots or other tenants hold land in the same village;

but no order shall be passed in such case, unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if at any time it shall appear to the Deputy Commissioner that the question between any two of the parties, of whom one is so joined with others, cannot conveniently be so jointly tried, the Deputy Commissioner may order a separate trial to be held.

40. Every order passed in any such case as is mentioned in the first clause of the last preceding section shall specify the extent to which each of the ryots or other tenants named in the order shall be affected thereby.

41. All suits which, under this Act, may be brought by or against zemindars or other persons in the receipt of the rent of land, may be brought by or against surburakars or tuteeldars of estates held khas management, whether such estates are the property of Government or of individuals.

42. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

43. Suits for the delivery of pottahs or kubooliyets, and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

44. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal or Sambut year, or from the last day of the month of Jeth of the Fusly or Willayutee year, in which the arrear claimed shall have become due.

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent not having been enhanced by the Deputy Commissioner under this Act, the suit shall be instituted within three months from the end of the Bengal or Sambut year, or of the month of Jeth of the Fusly or Willayutee year, on account of which such enhanced rent is claimed.

45. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent.

Provided that, if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

46. Suits under this Act shall be instituted by presenting to the Deputy Commissioner a plaint or statement of claim which

shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance of the claim; and the date of the cause of action.

47. If the suit is for the recovery of an arrear of rent, the statement of claim shall specify the name of the village and estate; the name of the pergunnah or other local division in which the land is situated; (if the arrear is alleged to be due from any ryot), the quantity of land, (where fields have been numbered in a Government survey), the number of each field; the yearly rent of the land; the amount (if any) received on account of the year for which the claim is made;

the amount in arrear; and the time in respect of which it is alleged to be due.

48. If the suit is for the ejectment of a ryot, farmer, or tenant from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure, the statement of claim shall specify (as circumstances may require) the extent, situation, and designation of the same, and (if necessary for the identification of the land), the boundaries of such land.

49. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

50. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:—

I, A. B., do declare that the above statement is true to the best of my knowledge and belief.

51. If the plaintiff relies in support of his claim on any document in his possession, he shall deliver the same to the Deputy Commissioner at the time of presenting his statement of claim.

Unless such document be delivered or its non-production be sufficiently excused, or unless the Deputy Commissioner see fit to extend the time for producing the same, it shall not afterwards be admitted.

52. If the plaintiff requires the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Deputy Commissioner a description of the document in order that the defendant may be required to produce the same.

53. If the statement of claim does not contain the several particulars hereinbefore required to be specified therein, or is not subscribed and verified as hereinbefore required, the Deputy Commissioner may return the statement to the plaintiff, or at his discretion allow it to be amended.

54. If the statement of claim is in proper form, the Deputy Commissioner, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff requires the personal attendance of the defendant, and satisfies the Deputy Commissioner that such personal attendance is necessary, or the Deputy Commissioner of his own accord requires such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

55. The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be or be supposed to be at the time from the place where the court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process, and shall be in the form contained in Schedule D hereto annexed, or to the like effect.

56. The amount of the cost of serving the summons, or, if a warrant is issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Deputy Commissioner.

If the said amount be not so deposited the case shall not be brought on the file of suits: but in such case the plaintiff may present another plaint at any time within the period prescribed by this Act for the limitation of suits.

57. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant.

When such application is presented, the Deputy Commissioner shall examine the plaintiff or his agent, according to the law for the time being in force for the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *prima facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Deputy Commissioner may issue a warrant for the arrest of the defendant.

The Deputy Commissioner shall fix a reasonable time for the return of the warrant, which shall be in the form contained in the Schedule E hereto annexed, or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant, which shall be in the form in the Schedule F hereto annexed, or to the like effect, containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent talook or other transferable tenure which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents, and to bring witnesses willing to attend without process.

Cost of serving summons or warrant to be deposited in court.

Warrant of arrest in what cases to be issued.

58. If the defendant is arrested under the warrant of arrest, he shall be brought with all convenient speed before the Deputy Commissioner, and the Deputy Commissioner shall commit him to custody, unless he deposits in court such sum as may be specified in the notice.

59. When the defendant is brought before the Deputy Commissioner under warrant, the Deputy Commissioner shall with all convenient speed proceed to try the case in the manner hereinafter provided; if the suit cannot be at once adjudicated, the Deputy Commissioner may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail to be there detained until he shall furnish such security, or deposit such sum as the Deputy Commissioner shall order.

The security bond shall be in the form contained in Schedule G hereto annexed, or to the like effect.

60. If the defendant cannot be arrested under the warrant, the Deputy Commissioner, on the application of the plaintiff, shall either postpone the case, for such period as he may think proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed to his own office and to the residence of the defendant appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant appears in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

61. If it appears to the Deputy Commissioner that the arrest of the defendant was applied for without reasonable cause, the Deputy Commissioner may in his decree award to the defendant such sum, not exceeding one hundred rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

62. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be postponed prior to the recording of an issue for trial as hereinafter provided, neither of the parties appears in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the provisions for the limitation of suits contained in this Act.

63. If on any such day the defendant only appears, the Deputy Commissioner shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Deputy Com-

missioner shall proceed to give judgment for the plaintiff upon such admission without costs; provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

64. If on any such day the plaintiff only appears, the Deputy Commissioner, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case, or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

65. If the defendant appears on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Deputy Commissioner may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

66. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff within fifteen days from the date of the Deputy Commissioner's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the opposite party to appear and be heard in support of it.

67. In all cases in which the Deputy Commissioner shall pass an order for setting aside a judgment, the order shall be final; but in all appealable cases in which the Deputy Commissioner shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable; provided that the appeal be preferred within the time allowed for an appeal from such final decision.

68. When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Deputy Commissioner, the Deputy Commissioner shall proceed to examine them, and either party or his agent may cross-examine the other.

Procedure after arrest of defendant.

Procedure when defendant is brought before the Deputy Commissioner under warrant.

Procedure if warrant of arrest cannot be served upon the defendant.

Compensation for arrest applied for without reasonable cause.

Consequence of neither party appearing on the day of trial.

If defendant only appear to dispute the demand, Deputy Commissioner shall pass judgment by default; but if defendant admit the claim, Deputy Commissioner shall decree upon such admission.

If plaintiff only appear, Deputy Commissioner may proceed *ex parte*.

If defendant appear on a day to which the case is postponed, Deputy Commissioner may allow him to be heard in answer to the suit.

Revival, reversal, and alteration of decrees *ex parte* or by default.

Order to set aside judgment shall be final, but rejection of application to set it aside shall be appealable.

On appearance of parties, the parties to be examined by the Deputy Commissioner and may cross-examine each other.

If either of the parties is not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence. Such statement shall be verified in the manner prescribed in section 50.

69. The examination of the parties or their agents, or such other persons as aforesaid, shall be conducted according to the law for the time being in force for the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Deputy Commissioner and filed with the record.

Provided that all examinations of parties and witnesses may be recorded in English, if the Deputy Commissioner be sufficiently acquainted with that language.

70. If either of the parties brings forward a witness on the day aforesaid, the Deputy Commissioner may take the evidence of such witness.

71. If the defendant relies on any document in support of his defence, he shall deliver the same into court at the first hearing of the suit; and unless such document is so delivered in, or its non-production is sufficiently excused, or unless the Deputy Commissioner sees fit to extend the time for producing the same, it shall not afterwards be admitted.

72. If after the examination required by section 68, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Deputy Commissioner shall make a decree accordingly.

73. If, on such examination as aforesaid, the agent of either party is unable to answer any material question relating to the case, which the Deputy Commissioner 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 Deputy Commissioner may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day;

and if the party so directed to attend fails to appear in person on the day appointed, the Deputy Commissioner may pass judgment as in case of default, or make such other order as he may deem proper under the circumstances of the case.

74. If, on such examination as aforesaid, it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Deputy Commissioner shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit;

and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

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

76. The provisions of the Code of Civil Procedure relating to the attendance and examination of witnesses and the production of documents, and to the remuneration and punishment of witnesses, shall, so far as they are consistent with this Act, apply to all suits under this Act.

77. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 62.

If on any such day one only of the parties appears, the issue may be tried and determined in the absence of the other party, upon such proof as may be then before the court.

78. When suits under this Act are instituted or defended by naibs, gomastahs, or other persons employed in the collection of rent, or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such naibs, gomastahs, or other persons; and anything which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act, relative to the service of processes on a party to the suit, shall be applicable to the service of processes on such person.

79. A plaintiff or defendant shall not be required to attend in person if of the female sex, and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

80. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the court.

81. The Deputy Commissioner may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence respectively of a suit, and may also from time to time, in order to the production of further proof, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

82. The Deputy Commissioner may at any stage of a suit cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force, relative to local enquiries by ameens or commissioners under orders of the civil courts, shall apply to any local enquiry made by any officer under this section, and, so far as they are applicable, to enquiries made by the Deputy Commissioner in person.

In the latter case, the Deputy Commissioner, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

83. The defendant in any suit under this Act may, if he has duly tendered the same to the plaintiff before the institution of the suit, pay into court such sum of money as he may consider due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of court to the plaintiff.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into court, the defendant shall be charged with the whole costs of the suit.

84. The defendant in any suit under this Act may, without having made any tender before action brought, pay into court such sum of money as he may consider due to the plaintiff, together with the costs (to be fixed by the court if necessary as upon a suit originally instituted for the amount so paid into court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of court to the plaintiff.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but if the plaintiff ultimately recovers a further sum than shall have been paid into court, the defendant shall be charged with

costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

85. No interest shall be allowed to the plaintiff on any sum paid by the defendant into court from the date of such payment, whether such sum be in full of his claim, or fall short thereof.

86. If on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy, the parties do not agree as to the term for which the pottah is to be granted, the Deputy Commissioner shall fix such term as under the circumstances of the case he may think just and proper.

Provided that the term shall not in any case be longer than twenty years, and in estates not permanently settled, shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

87. When in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person, on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such inquiry.

Provided that the decision of the Deputy Commissioner shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in a civil court, if instituted within one year from the date of the decision.

88. Any person desiring to eject a ryot, or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrears in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrears, and if such amount, together with interest and costs of suit, be paid into court within fifteen days from the date of the decree, execution shall be stayed.

89. The Deputy Commissioner shall pronounce judgment in open court. Judgment how to be pronounced. The judgment shall be written in the vernacular language of the Deputy Commissioner, and shall contain the reasons for the same, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced.

Provided that any judgment may be written in English, if the Deputy Commissioner be sufficiently acquainted with the English language.

90. In any suit for rent under this Act, if it appears to the court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due from him, and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Deputy Commissioner before the institution of the suit in manner hereinbefore mentioned,

The court may in certain cases award to the plaintiff additional damages not exceeding 25 per cent. the court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as the court may think fit;

and such damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest from the date of decree until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable.

91. In any suit for rent under this Act, if it appears to the court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause,

or that the defendant, before the institution of the suit, duly deposited with the Deputy Commissioner in the manner hereinafter mentioned the full amount which the court shall find to have been due to the plaintiff at the date of such deposit,

The court may award compensation, not exceeding 25 per cent. on the amount sued for, to a defendant improperly sued. the court may award to the defendant by way of compensation such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as the court may think fit;

and such sum, with interest until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under this Act.

92. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuses or delays to grant the same, the Deputy Commissioner may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

93. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet refuses to execute the same, the decree shall be evidence of the amount

of rent claimable from such person, and a copy of the decree under the hand and seal of the Deputy Commissioner shall be of the same force, and effect as a kubooliyet executed by the said person.

94. If the decree is for the ejectment of any ryot from land occupied by him, or for the reinstatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

Mode of executing decree for ejectment or reinstatement of ryot. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Deputy Commissioner, in the exercise of his powers as a Magistrate, shall give effect to the same.

95. If the decree is for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the reinstatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum, or in such other manner as may be customary, and affixing the same in some conspicuous place within, or adjacent to, the farm or tenure.

Mode of executing decree for cancelment of a lease, or for ejectment or reinstatement of a farmer or tenant. 96. If the decree is for arrears of rent, or for money, papers, or accounts, and the defendant has been committed to jail, or appears pursuant to the conditions of any security-bond given under section 59, the Deputy Commissioner may order that he be detained in, or committed to, the civil jail, unless he immediately pay into court the amount of the decree with costs, or otherwise comply with the terms of the decree.

In what case a judgment-debtor may be detained or imprisoned without issue of process of execution. 97. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due from the debtor had been passed against the surety.

Liability of surety on failure to deliver judgment-debtor into custody. If the decree is for the delivery of papers or accounts, and the defendant is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

98. The provisions relating to attachment before judgment, contained in the Code of Civil Procedure, are hereby extended to all suits under this Act.

99. Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not

Attachment before judgment. Issue of process of execution.

be issued simultaneously against both person and property.

Process of execution against the person or moveable property of a debtor shall be in the form contained in Schedule H or I hereto annexed, or to the like effect.

100. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

Application for execution against moveable property. In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process, by the creditor or his agent.

101. Every warrant of execution shall bear date on the day on which it is signed by the Deputy Commissioner, and shall continue in force for such period as the Deputy Commissioner may direct, not being more than sixty days from such date.

How long warrant shall continue in force. 102. Second and successive warrants of execution may be issued by order of the Deputy Commissioner on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

103. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

After one year execution not to issue without notice. 104. Execution on a judgment shall not issue against the heir or other representative of a deceased party, without notice to such heir or other representative to appear and be heard.

Execution not to issue against heir or representative of a deceased party without notice. 105. No process of execution of any description whatsoever shall be issued on a judgment under this Act, unless an application be made within three years from the date of such judgment.

106. If a warrant is issued for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Deputy Commissioner.

Warrant against the person. If such person does not then deposit in court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Deputy Commissioner that he has no present means of paying the debt, the Deputy Commissioner shall send him to the civil jail, there to remain for such time as shall be directed, by a warrant addressed to the keeper of the jail, unless he shall in the mean time pay the full amount for the payment of which he is liable under the decree.

Provided that no person shall be imprisoned in execution of a decree under this Act for a longer period than six months;

or for a longer period than six weeks, if the decree is for the payment of a sum of money not exceeding fifty rupees.

If the decree against any person arrested under a warrant is for the delivery of papers or accounts, and the papers or accounts are not delivered by him when he is brought before the Deputy Commissioner, such person may be committed to the civil jail, there to remain for such time, not exceeding six months, as the Deputy Commissioner shall direct, unless he shall in the mean time deliver the papers or accounts according to the terms of the decree.

107. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

If arrest be for non-delivery of accounts. If the amount due under the decree does not exceed fifty rupees, the Deputy Commissioner may declare such discharged person absolved from liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt property belonging to such person from attachment in execution of the same.

108. Any person applying for a warrant of arrest under section 57, or suing out process of execution against the body of any person, shall deposit in court, at the time of issue of the warrant, diet-money for thirty days at such rate as the Deputy Commissioner may direct.

Diet-money to be deposited at the time of issue of warrant. 109. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

110. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

111. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Deputy Commissioner and shall be affixed in his office.

Until the day of sale, the said property shall remain in the custody of the officer attaching the same.

112. The sale shall be held at the place where the property is deposited, or at the nearest gunge, bazar, haat, or other place of public resort, if the officer holding the sale is of opinion that it is likely to sell there to better advantage.

Place and manner of sale of property.

The property shall be sold by public auction in one or more lots as the officer holding the sale may think advisable; and if the judgment-debt with the costs of the execution and sale is satisfied by the sale of a portion of the property, the execution shall be immediately withdrawn with respect to the remainder.

113. If on the property being put up for sale a fair price, in the estimation of the officer holding the sale, is not offered for it, and the owner of the property, or some person authorized to act on his behalf, applies to have the sale postponed until the next day, or the next market day, if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered for the property.

114. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the officer holding the sale shall think necessary; and in default of such payment, the property shall be put up again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

115. From the proceeds of the sale of the property, the officer holding the sale shall make a deduction, at the rate of one anna in the rupee, on account of the costs of the sale, and shall transmit the amount to the Deputy Commissioner in order that it may be credited to Government.

The said officer shall then pay to the judgment-creditor the expenses incurred by the judgment-creditor on account of the preparation of the list, and of the publication of the proclamation of sale prescribed in section 111, to such amount as, after examination of the statement of expenses furnished by the judgment-creditor, he thinks proper to allow.

The remainder shall be applied to the discharge of the debt for which the sale was made, with interest thereon up to the day of sale, and if there be any surplus, it shall be delivered to the person whose property has been sold.

116. Officers holding sales of property under this Act, and all persons employed by, or subordinate to such officers, are prohibited from purchasing either directly or indirectly any property sold by such officers.

117. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken.

118. If before the day fixed for the sale, a third party appears before the Deputy Commissioner, and claims a right or interest in any of the moveable property taken in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witnesses, and if he see sufficient

reason for so doing, may stay the sale of such property.

119. The Deputy Commissioner shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and defendant in the original suit, as shall to him seem fit.

In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as they may be applicable.

120. If the claimant fails to establish his right to the property taken in execution, the Deputy Commissioner at the time of disposing of the case may award to the judgment-creditor against such claimant, as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

121. No appeal shall lie from any order passed by the Deputy Commissioner under the last two preceding sections. But the party against whom the same may be given shall be at liberty to bring a suit in the civil court to establish his right at any time within one year from the date of the order;

provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but for damages against the judgment-creditor by whom the property was brought to sale.

122. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale; but nothing contained in this section shall be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court; provided such action be brought within one year from the date of sale.

123. If the decree is for an arrear of rent due in respect of an under-tenure, which, by the title-deeds, or the custom of the country, is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and, with the sanction of the Commissioner, but not otherwise, the tenure may thereupon be brought to sale in execution of the decree, according to the provisions of the Act VIII of 1865.

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immovable, belonging to the debtor, and any such immovable property may be brought to sale in the manner provided in section 129.

124. No under-tenure which is held conditionally on the survival of heirs male of the grantee, and which, on failure of such heirs, reverts to the grantor free of all encumbrances made subsequent to the date of the grant, shall be sold under this Act.

Provided that the right and title of any person in such tenure may be sold with the sanction of the Commissioner.

125. If before the day fixed for the sale of any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124,

a third party appears before the Deputy Commissioner and alleges that such third party, and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Deputy Commissioner shall examine such party in the manner provided in section 118; and if he sees sufficient reason for so doing, and such party deposits in court the amount of the decree, or gives sufficient security for the same, the Deputy Commissioner shall stay the sale and proceed to enquire into and adjudicate upon the claim.

Provided that no transfer of an under-tenure, which, by the provisions of this Act or any other law for the time being in force, is required to be registered in the sherishtah of the zemindar or superior tenant, shall be recognized, unless it has been so registered, or unless sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner.

126. In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as the same may be applicable, and the judgment passed by the Deputy Commissioner on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the civil court to establish his right, at any time within one year from the date of the judgment.

127. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate, talook, or tenure, application for the sale of such under-tenure shall not be received, unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case the under-tenure, if of the nature described in section 123, and not of the nature described in section 124, may, with the sanction of the Commissioner, but not otherwise, be brought to sale in execution of the decree in the same manner as any other immovable property may be sold in execution of a decree for money under the provisions of the next two succeeding sections.

128. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, or of a tenure the right and title in which is saleable, if

satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immovable property belonging to such debtor, and such immovable property may, with the sanction of the Commissioner, but not otherwise, be brought to sale in the manner described in the next succeeding section.

129. If the immovable property against which execution is applied for is a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 111 to 117 (both inclusive) shall, so far as may be practicable, be applicable to the execution of such process.

If the property is a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

If the property is an estate, or a share of an estate, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

130. If, before the day fixed for the sale of any immovable property as aforesaid, objection is offered to the sale on the ground of such property not belonging to the judgment-debtor, the Deputy Commissioner shall examine the party making the objection in the manner prescribed in section 118, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into, and adjudicate upon, the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 126.

131. Every process issued by a Deputy Commissioner under this Act shall be under the seal and signature of the Deputy Commissioner, and shall be served or executed by the Nazir, or by such other officer as the Deputy Commissioner may direct, at the cost of the party at whose instance it issued.

132. The Deputy Commissioner may hold a court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction, provided that every hearing and decision shall be in open court, and that the

parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

133. All the powers conferred on the Deputy Commissioner by this Act may be exercised by any Deputy Collector in cases referred to him by a Deputy Commissioner; and in all cases without such reference, by any Deputy Collector placed in charge of any sub-division of a district, or specially authorized by the local Government to receive such cases;

and all applications and reports allowed or required by this Act to be made to the Deputy Commissioner may be made to any Deputy Collector having such local jurisdiction, or specially authorized as aforesaid.

134. In the performance of their duties under this Act, the Deputy Commissioners and Deputy Collectors shall be subject to the general direction and control of the Commissioner and the Board of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Deputy Commissioner to whom they are subordinate.

135. All orders passed by a Deputy Commissioner under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner, and all such orders passed by a Deputy Collector shall be appealable to the Deputy Commissioner;

but no judgment of a Deputy Commissioner or Deputy Collector in any suit, and no order of a Deputy Commissioner or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

136. Every appeal against the order of a Deputy Commissioner shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Deputy Commissioner within fifteen days, from the date of the order.

Orders passed in appeal by a Commissioner or a Deputy Commissioner shall not be open to any further appeal; but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

137. In suits under clauses two, four and seven of section 37, tried and decided by a Deputy Commissioner, if the amount sued for, or the value of the property claimed does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in section 144.

138. In suits in which the judgment of the Deputy Commissioner is final, as provided in the last preceding section, the Deputy Commissioner may, upon the application of either party, if made within thirty days from the date of the decision, order the rehearing of a suit upon the ground of the discovery of new evidence, or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

139. When any such suit as aforesaid, in which, if tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Deputy Commissioner.

140. The petition of appeal shall be presented to the Deputy Commissioner within fifteen days from the date of decree provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

141. The Deputy Commissioner shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent.

If on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal shall be dismissed for default.

If the appellant appears, and the respondent does not appear in person or by an agent, the appeal shall be heard *ex parte*.

142. If an appeal is dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Deputy Commissioner for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Deputy Commissioner that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner may re-admit the appeal.

143. After hearing the appeal, the Deputy Commissioner shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Deputy Commissioner shall be final.

144. In all suits other than those in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared to be final, or when tried and decided by a Deputy Collector, an appeal is allowed to the Deputy Commissioner, an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner of the Division, unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the High Court.

145. Appeals to the Judicial Commissioner or to the High Court under this Act shall be presented within the time prescribed

In suits not open to appeal, Deputy Commissioner may grant a rehearing upon the discovery of new evidence, &c.

Appeal from decision of Deputy Collector.

Period allowed for appeal.

Procedure in appeal.

Re-admission of appeal.

Judgment in appeal.

In what suits appeal to lie to Judicial Commissioner or High Court.

Period of limitation for appeals.

for the presentation of appeals to a District Judge or to the High Court under the Code of Civil Procedure by the law for the time being in force for the limitation of appeals.

146. Suits under this Act shall be preferred in the Revenue Office of the district; or, when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the sub-division in which the cause of action shall have arisen;

or, when the cause of action has arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a sub-division, but who has been specially authorized by the local Government to receive such suits, then in the office of such last-mentioned Deputy Collector.

Provided that the Deputy Commissioner may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

147. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, the district or sub-division in which the greater part of such lands is situated shall be held to be the district or sub-division in which the cause of action has arisen;

and if any question shall be raised respecting the district or sub-division in which the greater part of the lands is situated, the Board of Revenue, or if all the lands are situated in one district, the Deputy Commissioner of the district, shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

148. Except as provided in the last preceding section, no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any lands situated beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate, the revenue of which is paid into the treasury of the said district.

149. Every notice or summons in and by this Act required to be served on any person may be served.

(1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides;

or by delivering the said notice or summons to a general agent of the person to whom such notice or summons is directed, or to any person who has been appointed in that behalf; or

(2) by sending a registered letter containing such notice or summons directed to the said person at his usual place of abode;

(3) or, if no such place of abode can be found, and if the notice or summons cannot be served in any of the other modes mentioned in this section, by posting the same at the bhandhar of the village or holding to which the notice or summons relates.

Service of notice or summons.

Except as above, Deputy Commissioner not to exercise jurisdiction in respect of lands situate beyond his district.

150. Nothing contained in this Act shall be held to affect the provisions of Bengal Act II of 1869, or of Bengal Act VI of 1876.

SCHEDULE A.

(See Section 3.)

Being Acts repealed in the territories to which this Act extends.

DATE AND NO. OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
Act X of 1859.	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.
Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council.	An Act to amend Act X of 1859.	The whole Act.
Act IV of 1867, passed by the Lieutenant-Governor of Bengal in Council.	An Act to explain and amend Act VI of 1862, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.

SCHEDULE B.*

(See Section 14.)

I, A. B., of &c., do solemnly declare that I did personally (or by my agent C. D.) on the day of tender payment to E. F., at his mal-kutcherry (or at) the place where the rent of the lands at held or cultivated by me under or from the said E. F., are usually payable, of the sum of Rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of , both inclusive. I further declare that the said E. F. refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same). And I do declare that to the best of my belief, the sum of Rupees so tendered and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of to the month of , both inclusive, and that I owe the said E. F. no further sum on account of the rent of the said lands.

SCHEDULE C.†

(See Section 14.)

Court of the Deputy Commissioner of

Dated the day of 18

To E. F. of &c.

WITH reference to the within declaration, you are hereby informed that the sum of Rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said A. B. in respect of the

* If this declaration is made by an agent, it must be altered accordingly.

† This is to be by endorsement on a copy of the Declaration under Schedule B made by the person paying the money into Court.

rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date; otherwise your claim will be for ever barred.

SCHEDULE D.

(See Section 55.)

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated
In the Court of

A. B., Plaintiff.

[Name, description, and address of plaintiff.]

C. D., Defendant.

[Name, description, and address of defendant.]

Whereas the said A. B. has brought a claim against you in this court for [here specify particulars of claim as given in the statement] you are hereby required to appear in person in this court on the day of [if not specially required to appear in person, state "in person or by an agent who has personal knowledge of the subject, or who shall be accompanied by a person who has such knowledge"] to answer the abovenamed plaintiff, 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 all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

SCHEDULE E.

(See Section 57.)

FORM OF WARRANT OF ARREST.

No. (of suit) dated
In the Court of

A. B., Plaintiff.

C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 187

SCHEDULE F.

(See Section 57.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[Name, description, and address of plaintiff.]

C. D., Defendant.

[Name, description, and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for (here specify particulars of claim as given in the statement) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

SCHEDULE G.

(See Section 59.)

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Deputy Commissioner of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Deputy Commissioner.

SCHEDULE H.

(See Section 99.)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.

C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas the said C. D. was directed by a decree of this Court, under date the day of 187, to pay to A. B. the sum of and for costs of suit, amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this court to be dealt with according to law.

SCHEDULE I.

(See Section 99.)

WRIT OF EXECUTION AGAINST THE MOVEABLE PROPERTY.

A. B., Plaintiff.

C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas C. D. was directed by a decree of this Court, under date the day of 187, to pay to A. B. the sum of and for costs of suit, amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of, and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [if no list is furnished, these words to be omitted] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D. on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

FREDERICK CLARKE,

Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, FEBRUARY 19, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 14th March 1878; and having been assented to by the Governor-General on the 22nd January 1879, is hereby published for general information:—

ACT No. I OF 1879.

An Act to amend the procedure in suits between Landlords and Tenants in Chota Nagpore.

WHEREAS it is expedient to amend the procedure in suits between landlords and tenants in Chota Nagpore: It is enacted as follows:—

1. This Act may be called "The Chota Nagpore Landlord and Tenant Procedure Act;"

It extends to the territories for the time being under the administration of the Commissioner of the division of Chota Nagpore, except the district of Manbhoom and the Tributary Mehals.

And it shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

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

"Civil Jail" includes the civil jail of the district, and any place appointed by the local Government for the confinement of prisoners under this Act.

"The Commissioner" and "Judicial Commissioner" mean respectively the Commissioner and Judicial Commissioner of Chota Nagpore.

"Deputy Collector."

"Deputy Collector" includes also an Assistant Commissioner.

"Nazir" means any officer of a Court authorized to serve or execute its process.

"Section" means a Section of this Act.

3. On and from the commencement of this Act, the enactments specified in Schedule A hereto annexed shall be repealed to the extent mentioned in the third column of the said Schedule.

4. All suits or proceedings, of the nature provided for by this Act, which, before the commencement of this Act, shall have been instituted before any Deputy Commissioner or other officer having jurisdiction under any enactment hereby repealed, shall be heard and decided, so far as may be, under this Act.

5. Every ryot is entitled to receive, from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars:—

the quantity and boundaries of land; and where fields have been numbered in a Government survey, the number of each field;

the amount of annual rent;

the instalments in which the same is to be paid; any special conditions of the lease; and (if the rent is payable wholly or partially in kind), the proportion or quantity of produce to be delivered, and the time and manner of delivery.

6. Every ryot, who has cultivated or held land for a period of twelve years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to land held by him as a tenant.

not apply to the classes of lands locally known as majhahas, man, or saika; nor to khamar, nijjote, or seer land belonging to the proprietor of the estate or tenure, and let by him on lease for a term, or year by year.

The holding of the father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this section.

7. Nothing contained in the last preceding section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot, when it contains any express stipulation contrary thereto.

8. Ryots having rights of occupancy are entitled to receive pottahs at fair and equitable rates.

In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in an enquiry under section 24.

9. Ryots not having rights of occupancy are entitled to pottahs only at such rates, and on such conditions, as may be agreed on between them and the persons to whom the rent is payable.

10. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah.

The tender to any ryot of a pottah, such as the ryot is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

11. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under this Act, whether as abwab or under any other pretext,

and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent,

shall be entitled to recover from the person receiving such rent, damages not exceeding double the amount so exacted or paid.

12. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

13. If any under-tenant or ryot shall, at the mal kutcherry for the receipt of rents, or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the zemindar or other person in receipt of the rent of such land; and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, the under-tenant or ryot may, whether a suit shall have been instituted against him or not, within one month from the date of such tender, deposit

such amount, in the court of the Deputy Commissioner having jurisdiction to entertain a suit for such rent, to the credit of the zemindar or other person aforesaid;

and such deposit shall, so far as the under-tenant or ryot, and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of a payment then made by the under-tenant or ryot, of the amount deposited to the credit of such zemindar or other person.

14. The Deputy Commissioner shall receive such deposit on the written application of the under-tenant, or ryot, or his agent; and on the under-tenant, or ryot, or his agent, making a declaration in the form, or as nearly as circumstances will admit, in the form set forth in Schedule B hereto annexed, the Deputy Commissioner shall give a receipt for the same.

The Deputy Commissioner shall, within seven days from the date of the deposit, issue a notice to the person to whose credit it has been deposited, in the form set forth in Schedule C hereto annexed.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

15. Whenever such deposit shall have been made, no suit shall be brought against the person making the same or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted within six months from the date of the service of the notice mentioned in the last preceding section.

16. All zemindars and other landholders are prohibited from compelling the attendance of their tenants for the adjustment of their rents or for any other purpose, and from adopting any means of compulsion for enforcing payment of the rent due to them other than those authorized by this Act.

17. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding two hundred rupees, as may be deemed a reasonable compensation for the injury done him by such extortion.

An award of compensation under this section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

18. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in section fifty-one, Regulation VIII, 1793, or in any other law, to the contrary notwithstanding.

19. No tenant of lands known as bhuinhari or khoddatti shall be liable to any enhancement of the rent previously paid by him for such lands, unless it be shown that the tenure has been created within twenty years before the institution of the suit to enhance the rent of the said lands;

and where enhancement of the rent of such tenure is decreed, the rent assessed shall not exceed one-half of the rent paid by an ordinary ryot with a right of occupancy on the same class of land with similar advantages.

20. No tenant of lands known as korkor, baee-bullah, khundwut, sujhut, jalsasun, and ariat shall be liable to any enhancement of rent, except under the terms of a written contract, or in accordance with the general custom prevailing with respect to such lands in the village in which they are situated.

21. No other under-tenant or ryot having a right of occupancy shall be liable to any enhancement of the rent previously paid by him, otherwise than in the manner provided by the three next succeeding sections.

22. Any person wishing to enhance the rent previously paid to him by any such under-tenant or ryot may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such enhancement is sought, and (if necessary) to measure the same.

23. Such petition shall specify; the present rent of the under-tenant or ryot against whom the application is made;

the general rate prevailing in the village for different classes of lands;

the date (as nearly as it can be ascertained) when the rate was last adjusted in the village;

the rate which the applicant desires to demand; and

the grounds on which he considers that he is entitled to enhancement.

The provisions of sections 49 and 50 shall apply to all such applications.

24. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the under-tenant or ryot holding the land in respect of which enhancement is sought, and may (if necessary) order the same to be measured, and may upon consideration of all the circumstances set forth in the petition, and after hearing any objection which may be advanced against the proposed enhancement by the said under-tenant or ryot, fix such enhanced rent, or may otherwise alter or vary the rent for the said land as to him may seem fair and reasonable for such period, not being less than ten nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or ryot from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same.

Provided that nothing in this section shall be held to bar the right of such under-tenant or ryot

to claim at any time an abatement of the rent previously paid by him under the provisions of section 27.

25. When lands are held subject to any conditions or services other than or besides the payment of a rent in money, the tenant of such lands, or the person who has the right to receive the rents and services issuing from such lands, may apply in writing to the Deputy Commissioner for the commutation of all such conditions or services.

26. The Deputy Commissioner shall thereupon cause a notice to be served on each of the persons who, under the last preceding section, would have a right to make such application, and shall fix a date for considering the same; and on such date, or any date thereafter to which the hearing may be postponed, shall proceed to enquire into the matter, and to determine the amount of rent which in his judgment is fairly and equitably payable in commutation of the conditions or services to which such lands may be subject.

27. Any under-tenant or ryot having a right of occupancy, and wishing to claim an abatement of the rent previously paid by him,

may present a petition to the Deputy Commissioner to assess the rent on the land in respect of which such abatement is sought, and (if necessary) to measure the same.

Such petition shall specify the particulars mentioned in section 23, and the grounds on which such under-tenant or ryot considers that he is entitled to such abatement.

The provisions of sections 49 and 50 shall apply to all such applications.

28. On receipt of such petition the Deputy Commissioner shall forthwith give notice of the contents thereof to the person

to whom the rent of such under-tenant or ryot is payable, and may (if necessary) order the land to be measured, and may proceed as prescribed by section 24 to fix such abatement of rent, or may otherwise alter or vary the rent for the land of such under-tenant or ryot as to him may seem fair and reasonable for such period not being less than ten, nor more than twenty years, as he may think fit;

and the rent so fixed or varied shall be payable by such under-tenant or ryot from the commencement of the local year following the year in which the order is passed, and may be recovered in any suit preferred against him for arrears of the same.

Provided that nothing in this section shall be held to bar the right of the person to whom the rent of such under-tenant or ryot is payable to claim at any time an enhancement of the rent of such under-tenant or ryot under the provisions of section 22.

29. Any ryot may relinquish the land held or cultivated by him, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Pous of the year preceding that in which the relinquishment is to have effect.

If he fails to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land.

If the person entitled to the rent of the land or his agent refuses to receive any such notice and to sign a receipt for the same, the ryot may make an application to the Deputy Commissioner, who shall thereupon cause the notice to be served on such person or his agent.

30. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there is no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and in the absence of any written agreement to the contrary, shall be liable to interest at six per centum per annum.

31. When an arrear of rent remains due from any ryot at the end of the Bengal or Sambut year, or at the end of the month of Jeth of the Fusly or Willayuttee year, as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due, but only in execution of a decree or order passed under the provisions of this Act.

32. When an arrear of rent is adjudged to be due from any farmer or other leaseholder not having a permanent or transferable interest in the land, the lease of such leaseholder shall be liable to be cancelled, and the leaseholder to be ejected. Provided that no such lease shall be cancelled, nor the leaseholder ejected, otherwise than in execution of a decree or order under the provisions of this Act.

33. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right to make a general survey or measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land,

or if any under-tenant or ryot, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land,

such person may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot.

If any under-tenant or ryot, after the issue of an order enjoining his attendance, neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

34. All dependent talookdars and other persons possessing a permanent heritable interest in land intermediate between the zemindar and the cultivator are required to register, in the sherishteh of the zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by succession or inheritance.

Every zemindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers.

Application for the registration of all such successions as may have occurred previously to the commencement of this Act shall be made within two years from the commencement thereof, and for future successions within one year from the date on which the succession occurred: and if such application be not made within the period herein specified, the zemindar or superior tenant may apply to the Deputy Commissioner to put him in possession of the talook or tenure.

On receipt of such application the Deputy Commissioner shall issue a notice to the talookdar or tenure-holder in possession, requiring him to register the transfer within three months from the receipt of the notice, and if he neglects or refuses so to register, the Deputy Commissioner may, on proof to his satisfaction being given of the service of the notice, put the zemindar or superior tenant aforesaid in possession of the talook or tenure.

35. The provisions of the last preceding section shall also be applicable to the sale of such under-tenures as are mentioned in section 123, and to the sale of the right and title of any person under section 124.

36. If any zemindar or superior tenant refuses to admit to registry or otherwise to give effect to any such transfer as is mentioned in the two last preceding sections, the transferee may make application to the Deputy Commissioner, and the Deputy Commissioner shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the zemindar or superior tenant to admit to registry and otherwise give effect to such transfer.

Provided that no zemindar or superior tenant shall be required to admit to registry, or give effect to any division or distribution of the rent payable on account of any such tenures, nor shall any such division or distribution of rent be valid, without the consent in writing of the zemindar or superior tenant.

37. (1) All suits for the delivery of pottahs or kubooliyets, or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered;

(2) all suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

(3) all complaints of excessive demand of rent, and all claims to abatement of rent;

(4) all suits for arrears of rent due on account of land either rent-paying or rent-free, or on account of any rights of pasturage, forest-rights, fisheries, or the like;

(5) all suits to eject any ryot, or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejectment, or a lease may be liable to be cancelled;

(6) all suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same;

(7) all suits by zemindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession;

shall be cognizable by the Deputy Commissioners, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other court, except in the way of appeal as provided in this Act.

38. The Deputy Commissioner may, with the consent of the parties, refer any suit under this Act to arbitration, and the provisions of sections 506 to 522 (both inclusive) of the Code of Civil Procedure shall, as far as may be practicable, apply to such references.

39. In every suit under this Act, of the nature of those specified in the first, second, third, or fourth clauses of section 37, and in applications for enhancement, abatement or measurement under sections 22, 27 or 33, any number of ryots or other tenants may sue or be sued collectively, and it shall be no ground for dismissing the suit or refusing to hear the application that such ryots or other tenants are wrongly joined as plaintiffs or defendants, provided that all such ryots or other tenants hold land in the same village;

but no order shall be passed in such case, unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if at any time it shall appear to the Deputy Commissioner that the question between any two of the parties, of whom one is so joined with others, cannot conveniently be so jointly tried, the Deputy Commissioner may order a separate trial to be held.

40. Every order passed in any such case as is mentioned in the first clause of the last preceding section shall specify the extent to which each of the ryots or other tenants named in the order shall be affected thereby.

41. All suits which, under this Act, may be brought by or against zemindars or other persons in the receipt of the rent of land, may be brought by or against surburakars or talseeldars of estates held under khas management, whether such estates are the property of Government or of individuals.

42. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

43. Suits for the delivery of pottahs or kubooliyets, and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

44. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal or Sambut year, or from the last day of the month of Jeth of the Fusly or Willayuttee year, in which the arrear claimed shall have become due.

Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent not having been enhanced by the Deputy Commissioner under this Act, the suit shall be instituted within three months from the end of the Bengal or Sambut year, or of the month of Jeth of the Fusly or Willayuttee year, on account of which such enhanced rent is claimed.

45. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent.

Provided that, if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

46. Suits under this Act shall be instituted by presenting to the Deputy Commissioner a plaint or statement of claim which shall contain

the name, description, and place of abode of the plaintiff;

the name, description, and place of abode of the defendant, so far as they can be ascertained;

the substance of the claim; and

the date of the cause of action.

47. If the suit is for the recovery of an arrear of rent, the statement of claim shall specify

the name of the village and estate;

the name of the pergunnah or other local division in which the land is situated;

(if the arrear is alleged to be due from any ryot), the quantity of land,

(where fields have been numbered in a Government survey), the number of each field;

the yearly rent of the land;

the amount (if any) received on account of the year for which the claim is made;

the amount in arrear; and the time in respect of which it is alleged to be due.

48. If the suit is for the ejectment of a ryot, farmer, or tenant from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure, the statement of claim shall specify (as circumstances may require) the extent, situation, and designation of the same, and (if necessary for the identification of the land), the boundaries of such land.

49. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

50. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:—

I, A. B., do declare that the above statement is true to the best of my knowledge and belief.

51. If the plaintiff relies in support of his claim on any document in his possession, he shall deliver the same to the Deputy Commissioner at the time of presenting his statement of claim.

Unless such document be delivered or its non-production be sufficiently excused, or unless the Deputy Commissioner see fit to extend the time for producing the same, it shall not afterwards be admitted.

52. If the plaintiff requires the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Deputy Commissioner a description of the document in order that the defendant may be required to produce the same.

53. If the statement of claim does not contain the several particulars hereinbefore required to be specified therein, or is not subscribed and verified as hereinbefore required, the Deputy Commissioner may return the statement to the plaintiff, or at his discretion allow it to be amended.

54. If the statement of claim is in proper form, the Deputy Commissioner, except as otherwise hereinafter specially provided, shall direct the issue of a summons to the defendant, and if the plaintiff requires the personal attendance of the defendant, and satisfies the Deputy Commissioner that such personal attendance is necessary, or the Deputy Commissioner of his own accord requires such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

55. The day to be specified in the summons shall be fixed with reference to the state of the file, and the distance that the defendant may be or be supposed to be at the time from the place where the court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence.

It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process, and shall be in the form contained in Schedule D hereto annexed, or to the like effect.

56. The amount of the cost of serving the summons, or, if a warrant is issued as provided in the next succeeding section, of serving the warrant, shall in all cases be deposited in court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Deputy Commissioner.

If the said amount be not so deposited the case shall not be brought on the file of suits: but in such case the plaintiff may present another plaint at any time within the period prescribed by this Act for the limitation of suits.

57. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant.

When such application is presented, the Deputy Commissioner shall examine the plaintiff or his agent, according to the law for the time being in force for the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *prima facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Deputy Commissioner may issue a warrant for the arrest of the defendant.

The Deputy Commissioner shall fix a reasonable time for the return of the warrant, which shall be in the form contained in the Schedule E hereto annexed, or to the like effect, and the officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant, which shall be in the form in the Schedule F hereto annexed, or to the like effect, containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence.

But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent talook or other transferable tenure which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

58. If the defendant is arrested under the warrant of arrest, he shall be brought with all convenient speed before the Deputy Commissioner, and the Deputy Commissioner shall commit him to custody, unless he deposits in court such sum as may be specified in the notice.

59. When the defendant is brought before the Deputy Commissioner under warrant, the Deputy Commissioner shall with all convenient speed proceed to try the case in the manner hereinafter provided; if the suit cannot be at once adjudicated, the Deputy Commissioner may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the civil jail to be there detained until he shall furnish such security, or deposit such sum as the Deputy Commissioner shall order.

The security bond shall be in the form contained in Schedule G hereto annexed, or to the like effect.

60. If the defendant cannot be arrested under the warrant, the Deputy Commissioner, on the application of the plaintiff, shall either postpone the case, for such period as he may think proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed to his own office and to the residence of the defendant appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant.

If the defendant appears in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

61. If it appears to the Deputy Commissioner that the arrest of the defendant was applied for without reasonable cause, the Deputy Commissioner may in his decree award to the defendant such sum, not exceeding one hundred rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

62. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be postponed prior to the recording of an issue for trial as hereinafter provided, neither of the parties appears in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the provisions for the limitation of suits contained in this Act.

63. If on any such day the defendant only appears, the Deputy Commissioner shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Deputy Commissioner shall proceed to give judgment for the plaintiff upon such admission without costs; provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

64. If on any such day the plaintiff only appears, the Deputy Commissioner, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case, or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

65. If the defendant appears on any subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Deputy Commissioner may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

66. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff within fifteen days from the date of the Deputy Commissioner's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the opposite party to appear and be heard in support of it.

67. In all cases in which the Deputy Commissioner shall pass an order for setting aside a judgment, the order shall be final; but in all appealable cases in which the Deputy Commissioner shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable; provided that the appeal be preferred within the time allowed for an appeal from such final decision.

68. When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Deputy Commissioner, the Deputy Commissioner shall proceed to examine them, and either party or his agent may cross-examine the other.

69. If the plaintiff only appears, the Deputy Commissioner may proceed *ex parte*.

70. If the defendant appears on a subsequent day to which the hearing of the suit may be postponed under the last preceding section, the Deputy Commissioner may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

71. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff within fifteen days from the date of the Deputy Commissioner's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case.

But no decree shall be reversed or altered without previously summoning the opposite party to appear and be heard in support of it.

72. In all cases in which the Deputy Commissioner shall pass an order for setting aside a judgment, the order shall be final; but in all appealable cases in which the Deputy Commissioner shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable; provided that the appeal be preferred within the time allowed for an appeal from such final decision.

73. When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Deputy Commissioner, the Deputy Commissioner shall proceed to examine them, and either party or his agent may cross-examine the other.

If either of the parties is not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

At the time of examination the defendant, if he think fit, may file a written statement of his defence. Such statement shall be verified in the manner prescribed in section 50.

69. The examination of the parties or their agents, or such other persons as aforesaid, shall be conducted according to the law for the time being in force for the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Deputy Commissioner and filed with the record.

Provided that all examinations of parties and witnesses may be recorded in English, if the Deputy Commissioner be sufficiently acquainted with that language.

70. If either of the parties brings forward a witness on the day aforesaid, the Deputy Commissioner may take the evidence of such witness.

71. If the defendant relies on any document in support of his defence, he shall deliver the same into court at the first hearing of the suit; and unless such document is so delivered in, or its non-production is sufficiently excused, or unless the Deputy Commissioner sees fit to extend the time for producing the same, it shall not afterwards be admitted.

72. If after the examination required by section 68, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Deputy Commissioner shall make a decree accordingly.

73. If, on such examination as aforesaid, the agent of either party is unable to answer any material question relating to the case, which the Deputy Commissioner 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 Deputy Commissioner may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day;

and if the party so directed to attend fails to appear in person on the day appointed, the Deputy Commissioner may pass judgment as in case of default, or make such other order as he may deem proper under the circumstances of the case.

74. If, on such examination as aforesaid, it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Deputy Commissioner shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit;

and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

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

76. The provisions of the Code of Civil Procedure relating to the attendance and examination of witnesses and the production of documents, and to the remuneration and punishment of witnesses, shall, so far as they are consistent with this Act, apply to all suits under this Act.

77. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in section 62. If on any such day one only of the parties appears, the issue may be tried and determined in the absence of the other party, upon such proof as may be then before the court.

78. When suits under this Act are instituted or defended by naibs, gomastahs, or other persons employed in the collection of rent, or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such naibs, gomastahs, or other persons; and anything which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid.

Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act, relative to the service of processes on a party to the suit, shall be applicable to the service of processes on such person.

79. A plaintiff or defendant shall not be required to attend in person if of the female sex, and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

80. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the court.

81. The Deputy Commissioner may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence respectively of a suit, and may also from time to time, in order to the production of further proof, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

82. The Deputy Commissioner may at any stage of a suit cause a local enquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of Government with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local enquiry in person.

The provisions of the law for the time being in force, relative to local enquiries by amins or commissioners under orders of the civil courts, shall apply to any local enquiry made by any officer under this section, and, so far as they are applicable, to enquiries made by the Deputy Commissioner in person.

In the latter case, the Deputy Commissioner, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

83. The defendant in any suit under this Act may, if he has duly tendered the same to the plaintiff before the institution of the suit, pay into court such sum of money as he may consider due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of court to the plaintiff.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into court, the defendant shall be charged with the whole costs of the suit.

84. The defendant in any suit under this Act may, without having made any tender before action brought, pay into court such sum of money as he may consider due to the plaintiff, together with the costs (to be fixed by the court if necessary as upon a suit originally instituted for the amount so paid into court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of court to the plaintiff.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but if the plaintiff ultimately recovers a further sum than shall have been paid into court, the defendant shall be charged with

costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

85. No interest shall be allowed to the plaintiff on any sum paid by the defendant into court from the date of such payment, whether such sum be in full of his claim, or fall short thereof.

86. If on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy the parties do not agree as to the term for which the pottah is to be granted, the Deputy Commissioner shall fix such term as under the circumstances of the case he may think just and proper.

Provided that the term shall not in any case be longer than twenty years, and in estates not permanently settled, shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest.

For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

87. When in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person, on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such inquiry.

Provided that the decision of the Deputy Commissioner shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in a civil court, if instituted within one year from the date of the decision.

88. Any person desiring to eject a ryot, or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears in a suit for such ejectment or cancelment.

In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear; and if such amount, together with interest and costs of suit, be paid into court within fifteen days from the date of the decree, execution shall be stayed.

89. The Deputy Commissioner shall pronounce judgment in open court. Judgment how to be pronounced. The judgment shall be written in the vernacular language of the Deputy Commissioner, and shall contain the reasons for the same, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced.

Provided that any judgment may be written in English, if the Deputy Commissioner be sufficiently acquainted with the English language.

90. In any suit for rent under this Act, if it appears to the court that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due from him, and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Deputy Commissioner before the institution of the suit in manner hereinbefore mentioned,

the court may award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five per centum on the amount of rent decreed, as the court may think fit; and such damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest from the date of decree until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable.

91. In any suit for rent under this Act, if it appears to the court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant, before the institution of the suit, duly deposited with the Deputy Commissioner in the manner hereinafter mentioned the full amount which the court shall find to have been due to the plaintiff at the date of such deposit,

the court may award to the defendant by way of compensation such sum, not exceeding twenty-five per centum on the whole amount claimed by the plaintiff, as the court may think fit; and such sum, with interest until payment thereof at such rate per centum as the Deputy Commissioner deems reasonable, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under this Act.

92. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuses or delays to grant the same, the Deputy Commissioner may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

93. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet refuses to execute the same, the decree shall be evidence of the amount

of rent claimable from such person, and a copy of the decree under the hand and seal of the Deputy Commissioner shall be of the same force and effect as a kubooliyet executed by the said person.

94. If the decree is for the ejectment of any ryot from land occupied by him, or for the reinstatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy.

If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Deputy Commissioner, in the exercise of his powers as a Magistrate, shall give effect to the same.

95. If the decree is for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the reinstatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum, or in such other manner as may be customary, and affixing the same in some conspicuous place within, or adjacent to, the farm or tenure.

96. If the decree is for arrears of rent, or for money, papers, or accounts, and the defendant has been committed to jail, or appears pursuant to the conditions of any security-bond given under section 59, the Deputy Commissioner may order that he be detained in, or committed to, the civil jail, unless he immediately pay into court the amount of the decree with costs, or otherwise comply with the terms of the decree.

97. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due from the debtor had been passed against the surety.

If the decree is for the delivery of papers or accounts, and the defendant is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

98. The provisions relating to attachment before judgment, contained in the Code of Civil Procedure, are hereby extended to all suits under this Act.

99. Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not

be issued simultaneously against both person and property.

Process of execution against the person or moveable property of a debtor shall be in the form contained in Schedule H or I hereto annexed, or to the like effect.

100. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs.

In either case the property to be seized shall be pointed out to the officer entrusted with the execution of the process, by the creditor or his agent.

101. Every warrant of execution shall bear date on the day on which it is signed by the Deputy Commissioner, and shall continue in force for such period as the Deputy Commissioner may direct, not being more than sixty days from such date.

102. Second and successive warrants of execution may be issued by order of the Deputy Commissioner on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

103. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

104. Execution on a judgment shall not issue against the heir or other representative of a deceased party, without notice to such heir or other representative to appear and be heard.

105. No process of execution of any description whatsoever shall be issued on a judgment under this Act, unless an application be made within three years from the date of such judgment.

106. If a warrant is issued for taking in execution the body of any person, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Deputy Commissioner.

If such person does not then deposit in court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Deputy Commissioner that he has no present means of paying the debt, the Deputy Commissioner shall send him to the civil jail, there to remain for such time as shall be directed, by a warrant addressed to the keeper of the jail, unless he shall in the mean time pay the full amount for the payment of which he is liable under the decree.

Provided that no person shall be imprisoned in execution of a decree under this Act for a longer period than six months;

or for a longer period than six weeks, if the decree is for the payment of a sum of money not exceeding fifty rupees.

If the decree against any person arrested under a warrant is for the delivery of papers or accounts, and the papers or accounts are not delivered by him when he is brought before the Deputy Commissioner, such person may be committed to the civil jail, there to remain for such time, not exceeding six months, as the Deputy Commissioner shall direct, unless he shall in the mean time deliver the papers or accounts according to the terms of the decree.

107. Any person once discharged from jail shall not be imprisoned a second time under the same judgment.

If the amount due under the decree does not exceed fifty rupees, the Deputy Commissioner may declare such discharged person absolved from liability under that decree.

In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt property belonging to such person from attachment in execution of the same.

108. Any person applying for a warrant of arrest under section 57, or suing out process of execution against the body of any person, shall deposit in court, at the time of issue of the warrant, diet-money for thirty days at such rate as the Deputy Commissioner may direct.

109. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

110. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

111. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be transmitted to the Deputy Commissioner and shall be affixed in his office.

Until the day of sale, the said property shall remain in the custody of the officer attaching the same.

112. The sale shall be held at the place where the property is deposited, or at the nearest bazar, haut, or other place of public resort, if the officer holding the sale is of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale may think advisable; and if the judgment-debt with the costs of the execution and sale is satisfied by the sale of a portion of the property, the execution shall be immediately withdrawn with respect to the remainder.

113. If on the property being put up for sale a fair price, in the estimation of the officer holding the sale, is not offered for it, and the owner of the property, or some person authorized to act on his behalf, applies to have the sale postponed until the next day, or the next market day, if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered for the property.

114. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the officer holding the sale shall think necessary; and in default of such payment, the property shall be put up again and sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

115. From the proceeds of the sale of the property, the officer holding the sale shall make a deduction, at the rate of one anna in the rupee, on account of the costs of the sale, and shall transmit the amount to the Deputy Commissioner in order that it may be credited to Government.

The said officer shall then pay to the judgment-creditor the expenses incurred by the judgment-creditor on account of the preparation of the list, and of the publication of the proclamation of sale prescribed in section 111, to such amount as, after examination of the statement of expenses furnished by the judgment-creditor, he thinks proper to allow.

The remainder shall be applied to the discharge of the debt for which the sale was made, with interest thereon up to the day of sale, and if there be any surplus, it shall be delivered to the person whose property has been sold.

116. Officers holding sales of property under this Act, and all persons employed by, or subordinate to such officers, are prohibited from purchasing either directly or indirectly any property sold by such officers.

117. No sale of any moveable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken.

118. If before the day fixed for the sale, a third party appears before the Deputy Commissioner, and claims a right or interest in any of the moveable property taken in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witnesses, and if he see sufficient

reason for so doing, may stay the sale of such property.

119. The Deputy Commissioner shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and defendant in the original suit, as shall to him seem fit.

In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as they may be applicable.

120. If the claimant fails to establish his right to the property taken in execution, the Deputy Commissioner at the time of disposing of the case may award to the judgment-creditor against such claimant, as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

121. No appeal shall lie from any order passed by the Deputy Commissioner under the last two preceding sections.

But the party against whom the same may be given shall be at liberty to bring a suit in the civil court to establish his right at any time within one year from the date of the order;

provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but for damages against the judgment-creditor by whom the property was brought to sale.

122. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale; but nothing contained in this section shall be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court; provided such action be brought within one year from the date of sale.

123. If the decree is for an arrear of rent due in respect of an under-tenure, which, by the title-deeds, or the custom of the country, is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and, with the sanction of the Commissioner, but not otherwise, the tenure may thereupon be brought to sale in execution of the decree, according to the provisions for the sale of under-tenures contained in Bengal Act VIII of 1865.

But no such application shall be received when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force.

If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immovable, belonging to the debtor, and any such immovable property may be brought to sale in the manner provided in section 129.

124. No under-tenure which is held conditionally on the survival of heirs male of the grantee, and which, on failure of such heirs, reverts to the grantor free of all encumbrances made subsequent to the date of the grant, shall be sold under this Act.

Provided that the right and title of any person in such tenure may be sold with the sanction of the Commissioner.

125. If before the day fixed for the sale of any such under-tenure as is mentioned in section 123, or of the right and title of any person in an under-tenure of the nature described in section 124,

a third party appears before the Deputy Commissioner and alleges that such third party, and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained,

the Deputy Commissioner shall examine such party in the manner provided in section 118; and if he sees sufficient reason for so doing, and such party deposits in court the amount of the decree, or gives sufficient security for the same, the Deputy Commissioner shall stay the sale and proceed to enquire into and adjudicate upon the claim.

Provided that no transfer of an under-tenure, which, by the provisions of this Act or any other law for the time being in force, is required to be registered in the sherishtah of the zemindar or superior tenant, shall be recognized, unless it has been so registered, or unless sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner.

126. In trying such claim the Deputy Commissioner shall be guided by the provisions of this Act, so far as the same may be applicable, and the judgment passed by the Deputy Commissioner on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the civil court to establish his right, at any time within one year from the date of the judgment.

127. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate, talook, or tenure, application for the sale of such under-tenure shall not be received, unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the district in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment.

In such case the under-tenure, if of the nature described in section 124, may, with the sanction of the Commissioner, but not otherwise, be brought to sale in execution of the decree in the same manner as any other immovable property may be sold in execution of a decree for money under the provisions of the next two succeeding sections.

128. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, or of a tenure the right and title in which is saleable, if

satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the district in which the suit was instituted, the judgment-creditor may apply for execution against any immovable property belonging to such debtor, and such immovable property may, with the sanction of the Commissioner, but not otherwise, be brought to sale in the manner described in the next succeeding section.

129. If the immovable property against which execution is applied for is a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of sections 111 to 117 (both inclusive) shall, so far as may be practicable, be applicable to the execution of such process.

If the property is a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof.

If the property is an estate, or a share of an estate, it shall be sold under the provisions of the law for the time being in force in the Lower Provinces of Bengal applicable to the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

130. If, before the day fixed for the sale of any immovable property as aforesaid, objection is offered to the sale on the ground of such property not belonging to the judgment-debtor, the Deputy Commissioner shall examine the party making the objection in the manner prescribed in section 118, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into, and adjudicate upon, the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in section 126.

131. Every process issued by a Deputy Commissioner under this Act shall be under the seal and signature of the Deputy Commissioner, and shall be served or executed by the Nazir, or by such other officer as the Deputy Commissioner may direct, at the cost of the party at whose instance it issued.

132. The Deputy Commissioner may hold a court for hearing and determining suits under this Act in any place within the limits of his district or local jurisdiction, provided that every hearing and decision shall be in open court, and that the

parties to the suit, or their authorized agents, shall have had due notice to attend at such place.

133. All the powers conferred on the Deputy Commissioner by this Act may be exercised by any Deputy Collector in cases referred to him by a Deputy Commissioner; and in all cases without such reference, by any Deputy Collector placed in charge of any sub-division of a district, or specially authorized by the local Government to receive such cases;

and all applications and reports allowed or required by this Act to be made to the Deputy Commissioner may be made to any Deputy Collector having such local jurisdiction, or specially authorized as aforesaid.

134. In the performance of their duties under this Act, the Deputy Commissioners and Deputy Collectors shall be subject to the general direction and control of the Commissioner and the Board of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Deputy Commissioner to whom they are subordinate.

135. All orders passed by a Deputy Commissioner under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner, and all such orders passed by a Deputy Collector shall be appealable to the Deputy Commissioner;

but no judgment of a Deputy Commissioner or Deputy Collector in any suit, and no order of a Deputy Commissioner or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

136. Every appeal against the order of a Deputy Commissioner shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Deputy Commissioner within fifteen days, from the date of the order.

Orders passed in appeal by a Commissioner or a Deputy Commissioner shall not be open to any further appeal; but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

137. In suits under clauses two, four and seven of section 37, tried and decided by a Deputy Commissioner, if the amount sued for, or the value of the property claimed does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in section 144.

138. In suits in which the judgment of the Deputy Commissioner is final, as provided in the last preceding section, the Deputy Commissioner may, upon the application of either party, if made within thirty days from the date of the decision, order the rehearing of a suit upon the ground of the discovery of new evidence, or matter material to the issue of the case, which the applicant had no knowledge of, or could not produce, at the time of trial.

139. When any such suit as aforesaid, in which, if tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Deputy Commissioner.

140. The petition of appeal shall be presented to the Deputy Commissioner within fifteen days from the date of decree provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

141. The Deputy Commissioner shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent. If on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant does not appear in person or by an agent, the appeal shall be dismissed for default. If the appellant appears, and the respondent does not appear in person or by an agent, the appeal shall be heard *ex parte*.

142. If an appeal is dismissed for default of prosecution, the appellant may, within fifteen days from the date of the dismissal, apply to the Deputy Commissioner for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Deputy Commissioner that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner may re-admit the appeal.

143. After hearing the appeal, the Deputy Commissioner shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Deputy Commissioner shall be final.

144. In all suits other than those in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Deputy Commissioner, an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner of the Division, unless the amount or value in dispute exceed five thousand rupees, in which case the appeal shall lie to the High Court.

145. Appeals to the Judicial Commissioner or to the High Court under this Act shall be presented within the time prescribed

for the presentation of appeals to a District Judge or to the High Court under the Code of Civil Procedure by the law for the time being in force for the limitation of appeals.

146. Suits under this Act shall be preferred in the Revenue Office of the district; or, when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the sub-division in which the cause of action shall have arisen;

or, when the cause of action has arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a sub-division, but who has been specially authorized by the local Government to receive such suits, then in the office of such last-mentioned Deputy Collector.

Provided that the Deputy Commissioner may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

147. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement, or at one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, the district or sub-division in which the greater part of such lands is situated shall be held to be the district or sub-division in which the cause of action has arisen;

and if any question shall be raised respecting the district or sub-division in which the greater part of the lands is situated, the Board of Revenue, or if all the lands are situated in one district, the Deputy Commissioner of the district, shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

148. Except as provided in the last preceding section, no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any lands situated beyond the limits of the district to which he is appointed, by reason of such lands forming part of an estate, the revenue of which is paid into the treasury of the said district.

149. Every notice or summons in and by this Act required to be served on any person may be served.

(1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides;

or by delivering the said notice or summons to a general agent of the person to whom such notice or summons is directed, or to any person who has been appointed in that behalf; or

(2) by sending a registered letter containing such notice or summons directed to the said person at his usual place of abode; said person at his usual place of abode can be found, and if the notice or summons cannot be served in any of the other modes mentioned in this section, by posting the same at the bhandhar of the village or holding to which the notice or summons relates.

(3) or, if no such place of abode can be found, and if the notice or summons cannot be served in any of the other modes mentioned in this section, by posting the same at the bhandhar of the village or holding to which the notice or summons relates.

150. Nothing contained in this Act shall be held to affect the provisions of Bengal Act II of 1869, or of Bengal Act VI of 1876.

SCHEDULE A.
(See Section 3.)
Being Acts repealed in the territories to which this Act extends.

DATE AND NO. OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
Act X of 1859	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	The whole Act.
Act VI of 1863, passed by the Lieutenant-Governor of Bengal in Council.	An Act to amend Act X of 1859.	The whole Act.
Act IV of 1867, passed by the Lieutenant-Governor of Bengal in Council.	An Act to explain and amend Act VI of 1863, passed by the Lieutenant-Governor of Bengal in Council, and to give validity to certain judgments.	The whole Act.

SCHEDULE B.*
(See Section 14.)

I, A. B., of &c., do solemnly declare that I did personally (or by my agent C. D.) on the day of tender payment to E. F., at his mal-kutcherry (or at) the place where the rent of the lands at held or cultivated by me under or from the said E. F., are usually payable, of the sum of Rupees as and for the whole amount due from me in respect of the rent of the said lands from the month of to the month of , both inclusive. I further declare that the said E. F. refused to accept the said sum so tendered (or to give me a receipt in full forthwith for the same). And I do declare that to the best of my belief, the sum of Rupees so tendered and which I now desire to pay into Court, is the full amount which I owe the said E. F. on account of the rent of the said lands from the month of to the month of , both inclusive, and that I owe the said E. F. no further sum on account of the rent of the said lands.

SCHEDULE C.†
(See Section 14.)

Court of the Deputy Commissioner of
Dated the day of 18 .
To E. F. of &c.

WITH reference to the within declaration, you are hereby informed that the sum of Rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you or to your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said A. B. in respect of the

* If this declaration is made by an agent it must be altered accordingly.

† This is to be by endorsement on a copy of the Declaration under Schedule B made by the person paying the money into Court.

rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date; otherwise your claim will be for ever barred.

SCHEDULE D.

(See Section 55.)

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated
In the Court of
A. B., Plaintiff.
[Name, description, and address of plaintiff.]
C. D., Defendant.
[Name, description, and address of defendant.]

Whereas the said A. B. has brought a claim against you in this court for [here specify particulars of claim as given in the statement] you are hereby required to appear in person in this court on the day of [if not specially required to appear in person, state "in person or by an agent who has personal knowledge of the subject, or who shall be accompanied by a person who has such knowledge"] to answer the abovenamed plaintiff, 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 all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

SCHEDULE E.

(See Section 57.)

FORM OF WARRANT OF ARREST.

No. (of suit) dated
In the Court of
A. B., Plaintiff.
C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 187

SCHEDULE F.

(See Section 57.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of
A. B., Plaintiff.
[Name, description, and address of plaintiff.]
C. D., Defendant.
[Name, description, and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for (here specify particulars of claim as given in the statement) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

SCHEDULE G.

(See Section 59.)

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Deputy Commissioner of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Deputy Commissioner.

SCHEDULE H.

(See Section 99.)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.
C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas the said C. D. was directed by a decree of this Court, under date the day of 187, to pay to A. B. the sum of for costs of suit, amounting to and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this court to be dealt with according to law.

SCHEDULE I.

(See Section 99.)

WRIT OF EXECUTION AGAINST THE MOVEABLE PROPERTY.

A. B., Plaintiff.
C. D., Defendant.

To
The Nazir of the Court of the Deputy Commissioner of

Whereas C. D. was directed by a decree of this Court, under date the day of 187, to pay to A. B. the sum of and for costs of suit, amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of, and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [if no list is furnished, these words to be omitted] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D. on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

FREDERICK CLARKE,
Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, APRIL 2, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 26th February 1879, and, having been assented to by the Governor-General on the 22nd March 1879, is hereby published for general information:—

ACT No. II OF 1879.

An Act to amend and extend the Pooree Lodging-house Act, 1871.

Whereas it is expedient to amend Bengal Act No. IV of 1871, and to give power to the Lieutenant-Governor of Bengal to extend the provisions of the said Act to places other than those specified in section 89 of the said Act: It is enacted as follows:—

1. This Act shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

2. Section 22 of Bengal Act No. IV of 1871, is repealed and the following section substituted:—

"22. All fines and fees under this Act shall be expended in the sanitary improvement of all or any of the towns or places in which this Act may be in

force, or in the sanitary improvement of pilgrim halting-places or the roads leading to such towns or places, in such manner as the Lieutenant-Governor of Bengal may from time to time direct."

3. The Lieutenant-Governor of Bengal may from time to time, by notification in the Calcutta Gazette, extend Bengal Act No. IV of 1871, as amended

by this Act, or any part of it, to any town or place to or through which people go on pilgrimage and to the lines of road leading thereto; and the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification, apply accordingly with the following modifications:—

In lieu of the word "Pooree" in sections 2, 3, 7, and schedule B, shall be substituted the name of the place or places mentioned in the notification.

In lieu of the words "the rate of eight annas" in section 8 shall be substituted the words "a rate not exceeding one rupee."

In lieu of the last five words in section 14, shall be substituted the words "in the character of the vernacular of the district."

FREDERICK CLARKE,

Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, APRIL 9, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 26th February 1879, and, having been assented to by the Governor-General on the 22nd March 1879, is hereby published for general information :—

ACT NO. II OF 1879.

An Act to amend and extend the Pooree Lodging-house Act, 1871.

Whereas it is expedient to amend Bengal Act No. IV of 1871, and to give power to the Lieutenant-Governor of Bengal to extend the provisions of the said Act to places other than those specified in section 89 of the said Act: It is enacted as follows :—

1. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

Amendment of section 22 of Pooree Lodging-house Act.

2. Section 22 of Bengal Act No. IV of 1871 is repealed, and the following section substituted :—

“ 22. All fines and fees under this Act shall be expended in the sanitary improvement of all or any of the towns or places in which this Act may be in

force, or in the sanitary improvement of pilgrim halting-places or the roads leading to such towns or places, in such manner as the Lieutenant-Governor of Bengal may from time to time direct.”

3. The Lieutenant-Governor of Bengal may from time to time, by notification in the *Calcutta Gazette*, extend Bengal Act No. IV of 1871, as amended

by this Act, or any part of it, to any town or place to or through which people go on pilgrimage, and to the lines of road leading thereto; and the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification, apply accordingly with the following modifications :—

In lieu of the word “Pooree” in sections 2, 3, 7, and schedule B, shall be substituted the name of the place or places mentioned in the notification.

In lieu of the words “the rate of eight annas” in section 8 shall be substituted the words “a rate not exceeding one rupee.”

In lieu of the last five words in section 14 shall be substituted the words “in the character of the vernacular of the district.”

FREDERICK CLARKE,
Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, APRIL 16, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

(Third Publication.)

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 26th February 1879, and, having been assented to by the Governor-General on the 22nd March 1879, is hereby published for general information :—

ACT NO. II OF 1879.

An Act to amend and extend the Pooree Lodging-house Act, 1871.

Whereas it is expedient to amend Bengal Act No. IV of 1871, and to give power to the Lieutenant-Governor of Bengal to extend the provisions of the said Act to places other than those specified in section 89 of the said Act: It is enacted as follows :—

1. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor General.

Amendment of section 89 of Pooree Lodging-house Act.

2. Section 22 of Bengal Act No. IV of 1871 is repealed, and the following section substituted :—

" 22. All fines and fees under this Act shall be expended in the sanitary improvement of all or any of the towns or places in which this Act may be in

force, or in the sanitary improvement of pilgrim halting-places or the roads leading to such towns or places, in such manner as the Lieutenant-Governor of Bengal may from time to time direct."

3. The Lieutenant-Governor of Bengal may from time to time, by notification in the *Calcutta Gazette*, extend Bengal Act No. IV of 1871, as amended by this Act, or any part of it, to any town or place to or through which people go on pilgrimage, and to the lines of road leading thereto; and the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification, apply accordingly with the following modifications :—

In lieu of the word "Pooree" in sections 2, 3, 7, and schedule B, shall be substituted the name of the place or places mentioned in the notification.

In lieu of the words "the rate of eight annas" in section 8 shall be substituted the words "a rate not exceeding one rupee."

In lieu of the last five words in section 14 shall be substituted the words "in the character of the vernacular of the district."

FREDERICK CLARKE,
Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, MAY 7, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[First Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 12th March 1879, and having received the assent of His Excellency the Governor-General on the 24th April 1879, is hereby promulgated for general information :—

ACT No. III OF 1879.

An Act to provide for the periodical inspection of Steam Boilers and Prime Movers attached thereto in the Town and Suburbs of Calcutta and in Howrah.

WHEREAS it is expedient to provide for the periodical inspection of steam boilers and prime movers attached thereto in the Town and Suburbs of Calcutta and in Howrah; It is enacted as follows :—

Extent and commencement of Act. 1. This Act extends to the Town of Calcutta, to the Suburbs of Calcutta, and to Howrah, as from time to time defined in the *Calcutta Gazette* under the provisions of any law for the time being in force;

and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

The Lieutenant-Governor of Bengal may, by notification published in the *Calcutta Gazette*, extend this Act to any place or district, and it shall come into force accordingly from the date which may be named in such notification.

It shall not apply to any locomotive engine used upon any railway, or to any steam vessel in the port of Calcutta.

Repeal of Bengal Acts VI of 1864 and III of 1875.

2. Bengal Act VI of 1864 and Bengal Act III of 1875 are hereby repealed.

But all certificates and rules in force at the commencement of this Act, which were granted or made under either of the said Acts, shall be deemed to have been granted and made respectively under this Act.

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

“Boiler” includes any cylinder or vessel for generating steam under pressure.

“Prime Mover” includes any steam engine, fly wheel, first driving shaft and pulley attached to any such engine.

“Owner” includes any agent or hirer using any boiler or prime mover.

4. The Lieutenant-Governor may from time to time make, and when made, revoke, add to, and alter, rules for all or any of the following purposes, that is to say,—

- (1) for appointing and, when appointed, suspending or removing Inspectors under this Act;
- (2) for determining the powers and duties of such Inspectors;
- (3) for fixing the fees payable on account of certificates granted under this Act;

- (4) for determining the time for which certificates granted under this Act shall be in force;
- (5) for securing the attendance of assessors and affixing a penalty for non-attendance;
- (6) for regulating the procedure on hearing appeals;
- (7) for carrying out the purposes of this Act.

Such rules shall be published three times in the *Calcutta Gazette*, and shall come into operation at the date of the last publication or at any later period mentioned in the order.

5. The owner of any boiler or prime mover in respect of which a certificate is not in force in the manner hereinafter described shall, before using

the same, give notice to an Inspector appointed under this Act of his intention to use or continue to use the same. The Inspector to whom such notice is given shall appoint a time between sunrise and sunset, and within fourteen days from the receipt of such notice, for the inspection of such boiler or prime mover, and at such time shall carefully examine such boiler or prime mover, and every part thereof, and the owner or person in charge thereof shall afford to such Inspector all reasonable facilities for such examination, and all such information as may reasonably be required.

6. If on making the inspection the Inspector is of opinion that the boiler or prime mover requires any alteration or addition, he shall serve on the owner or person in charge thereof a written notice requiring him to make such alteration or addition, and no certificate shall be granted in respect of such boiler or prime mover until such alteration or addition has been made in the manner required by the Inspector, or the owner has obtained a certificate under section 9 of this Act.

7. If the Inspector is satisfied that such boiler or prime mover is in good condition, and not so exposed as to be likely to be dangerous,

and, in case any alteration or addition in such boiler or prime mover has been ordered under the last preceding section, as soon as he is satisfied that such alteration or addition has been properly made,

he shall give to the owner or person in charge thereof a certificate signed by him to that effect in the form in the Schedule hereto annexed, on payment, by the owner or person in charge, of such fees as may be fixed under the rules hereinbefore mentioned;

and such certificate shall state the period for which such boiler or prime mover may be used, and shall cease to be in force on the expiration of such period.

8. Any person authorized by the Lieutenant-Governor in that behalf may revoke or suspend any certificate granted under this Act when he has reason to believe—

- (1) That such certificate has been fraudulently obtained, or has been granted erroneously, or without sufficient inspection;

- (2) That the boiler or prime mover in respect of which it has been granted is not in charge of a person competent to have charge of it, or has since the granting of such certificate sustained injury, or is not in good condition.

9. The owner of any boiler or prime mover dissatisfied with any notice or order under sections 6, 7, or 8 of this Act may, within seven days from receipt thereof, appeal either to some person authorized by the Lieutenant-Governor in that behalf, or to some such person assisted by two experts as assessors.

If such person is satisfied that the owner is entitled to a certificate, he shall, on payment of the fee, grant a certificate in the form in the Schedule hereto annexed, or shall allow the former certificate to continue in force, as the case may be, and shall direct that the expenses of the appeal incurred by Government and certified to by him shall be paid out of the fees and penalties realised under this Act.

If such person decides that the owner is not entitled to a certificate, he shall dismiss the appeal, and the expenses of the appeal incurred and certified in manner aforesaid shall be recoverable from the owner as a fine by any Magistrate having jurisdiction in the place where the boiler or prime mover is situated.

10. Any Inspector appointed under this Act may at any time enter into any place where he has reason to believe that a boiler or prime mover is used, for the purpose of inspecting the same.

11. The owner or person in charge of any boiler or prime mover who shall use, or, after conviction, continue to use the same without a certificate duly obtained and in force in respect thereof under this Act, or having obtained a certificate shall at any reasonable time during the period for which the same may be in force, fail to produce it when called upon to do so by any Magistrate having jurisdiction in the place in which such boiler or prime mover is situated, or by any person authorized in writing by such Magistrate to demand its production, and

any person who shall prevent an Inspector from entering any place or building where the Inspector has reason to believe that a boiler or prime mover is used,

shall be punished with a fine not exceeding five hundred rupees.

12. No charge shall be brought against any person for the recovery of any penalty under this Act before such day as the Lieutenant-Governor shall fix by notification in the *Calcutta Gazette*; and no charge at all shall be brought without the authority of an Inspector appointed under this Act, or after the expiration of six months from the date of the commission of the offence.

13. All penalties to be levied under this Act shall, subject to the provisions of section 9, be disposed of in such manner as the Lieutenant-Governor shall from time to time direct.

SCHEDULE.

(See Sections 7 and 9.)

FORM OF CERTIFICATE.

Name of owner.	Description of boiler and age.	Description of prime mover and age.	Power.	When and where made.	When and where last repaired.	Time for which certificate to be in force.	REMARKS.

I, the undersigned, certify that I have examined the above-named boiler (or prime mover), and to the best of my judgment the boiler (or prime mover), as shown in the above statement, is in good condition, and is not so exposed as to be likely to be dangerous [and (in case alterations or additions have been ordered) that the alterations (or additions) required by me have been properly made.]

A. B.,
Inspector.

W. E. H. FORSYTH,
Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, MAY 14, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 12th March 1879, and having received the assent of His Excellency the Governor-General on the 24th April 1879, is hereby promulgated for general information :—

Act No. III of 1879.

An Act to provide for the periodical inspection of Steam Boilers and Prime Movers attached thereto in the Town and Suburbs of Calcutta and in Howrah.

WHEREAS it is expedient to provide for the periodical inspection of steam boilers and prime movers attached thereto in the Town and Suburbs of Calcutta and in Howrah; It is enacted as follows :—

1. This Act extends to the Town of Calcutta, to the Suburbs of Calcutta, and to Howrah, as from time to time defined in the *Calcutta Gazette* under the provisions of any law for the time being in force;

and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

The Lieutenant-Governor of Bengal may, by notification published in the *Calcutta Gazette*, extend this Act to any place or district, and it shall come into force accordingly from the date which may be named in such notification.

It shall not apply to any locomotive engine used upon any railway, or to any steam vessel in the port of Calcutta.

Repeal of Bengal Acts VI of 1864 and III of 1875.

2. Bengal Act VI of 1864 and Bengal Act III of 1875 are hereby repealed.

But all certificates and rules in force at the commencement of this Act, which were granted or made under either of the said Acts, shall be deemed to have been granted and made respectively under this Act.

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

“Boiler” includes any cylinder or vessel for generating steam under pressure.

“Prime Mover” includes any steam engine, fly wheel, first driving shaft and pulley attached to any such engine.

“Owner” includes any agent or hirer using any boiler or prime mover.

4. The Lieutenant-Governor may from time to time make, and when made, revoke, add to, and alter, rules for all or any of the following purposes, that is to say,—

- (1) for appointing and, when appointed, suspending or removing Inspectors under this Act;
- (2) for determining the powers and duties of such Inspectors;
- (3) for fixing the fees payable on account of certificates granted under this Act;

- (4) for determining the time for which certificates granted under this Act shall be in force;
- (5) for securing the attendance of assessors and affixing a penalty for non-attendance;
- (6) for regulating the procedure on hearing appeals;
- (7) for carrying out the purposes of this Act.

Such rules shall be published three times in the *Calcutta Gazette*, and shall come into operation at the date of the last publication or at any later period mentioned in the order.

5. The owner of any boiler or prime mover in respect of which a certificate is not in force in the manner hereinafter described shall, before using the same, give notice to an Inspector appointed under this Act of his intention to use or continue to use the same. The Inspector to whom such notice is given shall appoint a time between sunrise and sunset, and within fourteen days from the receipt of such notice, for the inspection of such boiler or prime mover, and at such time shall carefully examine such boiler or prime mover, and every part thereof, and the owner or person in charge thereof shall afford to such Inspector all reasonable facilities for such examination, and all such information as may reasonably be required.

6. If on making the inspection the Inspector is of opinion that the boiler or prime mover requires any alteration or addition, he shall serve on the owner or person in charge thereof a written notice requiring him to make such alteration or addition, and no certificate shall be granted in respect of such boiler or prime mover until such alteration or addition has been made in the manner required by the Inspector, or the owner has obtained a certificate under section 9 of this Act.

7. If the Inspector is satisfied that such boiler or prime mover is in good condition, and not so exposed as to be likely to be dangerous,

and, in case any alteration or addition in such boiler or prime mover has been ordered under the last preceding section, as soon as he is satisfied that such alteration or addition has been properly made,

he shall give to the owner or person in charge thereof a certificate signed by him to that effect in the form in the Schedule hereto annexed, on payment, by the owner or person in charge, of such fees as may be fixed under the rules herein before mentioned;

and such certificate shall state the period for which such boiler or prime mover may be used, and shall cease to be in force on the expiration of such period.

8. Any person authorized by the Lieutenant-Governor in that behalf may revoke or suspend any certificate granted under this Act when he has reason to believe—

- (1) That such certificate has been fraudulently obtained, or has been granted erroneously, or without sufficient inspection;

- (2) That the boiler or prime mover in respect of which it has been granted is not in charge of a person competent to have charge of it, or has since the granting of such certificate sustained injury, or is not in good condition.

9. The owner of any boiler or prime mover dissatisfied with any notice or order under sections 6, 7, or 8 of this Act may, within seven days from receipt thereof, appeal either to some person authorized by the Lieutenant-Governor in that behalf, or to some such person assisted by two experts as assessors.

If such person is satisfied that the owner is entitled to a certificate, he shall, on payment of the fee, grant a certificate in the form in the Schedule hereto annexed, or shall allow the former certificate to continue in force, as the case may be, and shall direct that the expenses of the appeal incurred by Government and certified to by him shall be paid out of the fees and penalties realised under this Act.

If such person decides that the owner is not entitled to a certificate, he shall dismiss the appeal, and the expenses of the appeal incurred and certified in manner aforesaid shall be recoverable from the owner as a fine by any Magistrate having jurisdiction in the place where the boiler or prime mover is situated.

10. Any Inspector appointed under this Act may at any time enter into any place where he has reason to believe that a boiler or prime mover is used, for the purpose of inspecting the same.

11. The owner or person in charge of any boiler or prime mover who shall use, or, after conviction, continue to use the same without a certificate duly obtained and in force in respect thereof under this Act, or having obtained a certificate shall at any reasonable time during the period for which the same may be in force, fail to produce it when called upon to do so by any Magistrate having jurisdiction in the place in which such boiler or prime mover is situated, or by any person authorized in writing by such Magistrate to demand its production, and

any person who shall prevent an Inspector from entering any place or building where the Inspector has reason to believe that a boiler or prime mover is used,

shall be punished with a fine not exceeding five hundred rupees.

12. No charge shall be brought against any person for the recovery of any penalty under this Act before such day as the Lieutenant-Governor shall fix by notification in the *Calcutta Gazette*; and no charge at all shall be brought without the authority of an Inspector appointed under this Act, or after the expiration of six months from the date of the commission of the offence.

13. All penalties to be levied under this Act shall, subject to the provisions of section 9, be disposed of in such manner as the Lieutenant-Governor shall from time to time direct.

SCHEDULE.

(See Sections 7 and 9.)

FORM OF CERTIFICATE.

Name of owner.	Description of boiler and age.	Description of prime mover and age.	Power.	When and where made.	When and where last repaired.	Time for which certificate to be in force.	REMARKS.

I, the undersigned, certify that I have examined the above-named boiler (or prime mover), and to the best of my judgment the boiler (or prime mover), as shown in the above statement, is in good condition, and is not so exposed as to be likely to be dangerous (and in case alterations or additions have been ordered) that the alterations (or additions) required by me have been properly made.]

A. R.
Inspector.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[First Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 6th May 1879, is hereby promulgated for general information:—

ACT No. IV OF 1879.

An Act to repeal certain sections of Bengal Act IV of 1866, and to provide for the levy of fees upon certain passenger-boats and steam ferries.

WHEREAS it is expedient to repeal certain sections of Bengal Act IV of 1866, and to enable the local Government to levy fees upon passenger-boats and steam ferries plying for passengers, either wholly within, or partly within and partly without, the limits of the Port of Calcutta;

It is enacted as follows:—

1. Sections 63, 64, and 65 of Bengal Act IV of 1866, the Calcutta Police Act, are hereby repealed.

2. The local Government may by notification published in the *Calcutta Gazette* from time to time prescribe a scale of fees,

annual or other, to be paid by the owners of passenger-boats or steam ferries plying for passengers, either wholly within, or partly within and partly without, the limits of the Port of Calcutta.

3. Whoever, being the owner of any such passenger-boat or steam ferry, refuses or neglects to pay the fee to which he is liable in accordance with such notification, shall be liable to the penalty provided for disobedience to rules made under section 7 of the Indian Ports Act, 1875.

4. This Act shall not apply to boats whose voyages ordinarily extend more than thirty miles from the limits of the Port of Calcutta.

5. This Act shall come into force on such date as the Lieutenant-Governor of Bengal may direct by notification published as aforesaid.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, MAY 21, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 12th March 1879, and having received the assent of His Excellency the Governor-General on the 24th April 1879, is hereby promulgated for general information:—

ACT No. III of 1879.

An Act to provide for the periodical inspection of Steam Boilers and Prime Movers attached thereto in the Town and Suburbs of Calcutta and in Howrah.

WHEREAS it is expedient to provide for the periodical inspection of steam boilers and prime movers attached thereto in the Town and Suburbs of Calcutta and in Howrah; It is enacted as follows:—

1. This Act extends to the Town of Calcutta, to the Suburbs of Calcutta, and to Howrah, as from time to time defined in the *Calcutta Gazette* under the provisions of any law for the time being in force;

and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

The Lieutenant-Governor of Bengal may, by notification published in the *Calcutta Gazette*, extend this Act to any place or district, and it shall come into force accordingly from the date which may be named in such notification.

It shall not apply to any locomotive engine used upon any railway, or to any steam vessel in the port of Calcutta.

Repeal of Bengal Acts VI of 1864 and III of 1875.

2. Bengal Act VI of 1864 and Bengal Act III of 1875 are hereby repealed.

But all certificates and rules in force at the commencement of this Act, which were granted or made under either of the said Acts, shall be deemed to have been granted and made respectively under this Act.

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

“Boiler” includes any cylinder or vessel for generating steam under pressure.

“Prime Mover” includes any steam engine, fly wheel, first driving shaft and pulley attached to any such engine.

“Owner” includes any agent or hirer using any boiler or prime mover.

4. The Lieutenant-Governor may from time to time make, and when made, revoke, add to, and alter, rules for all or any of the following purposes, that is to say,—

- (1) for appointing and, when appointed, suspending or removing Inspectors under this Act;
- (2) for determining the powers and duties of such Inspectors;
- (3) for fixing the fees payable on account of certificates granted under this Act;

- (4) for determining the time for which certificates granted under this Act shall be in force;
- (5) for securing the attendance of assessors and affixing a penalty for non-attendance;
- (6) for regulating the procedure on hearing appeals;
- (7) for carrying out the purposes of this Act.

Such rules shall be published three times in the *Calcutta Gazette*, and shall come into operation at the date of the last publication or at any later period mentioned in the order.

5. The owner of any boiler or prime mover in respect of which a certificate is not in force in the manner hereinafter described shall, before using the same, give notice to an Inspector appointed under this Act of his intention to use or continue to use the same. The Inspector to whom such notice is given shall appoint a time between sunrise and sunset, and within fourteen days from the receipt of such notice, for the inspection of such boiler or prime mover, and at such time shall carefully examine such boiler or prime mover, and every part thereof, and the owner or person in charge thereof shall afford to such Inspector all reasonable facilities for such examination, and all such information as may reasonably be required.

6. If on making the inspection the Inspector is of opinion that the boiler or prime mover requires any alteration or addition, he shall serve on the owner or person in charge thereof a written notice requiring him to make such alteration or addition, and no certificate shall be granted in respect of such boiler or prime mover until such alteration or addition has been made in the manner required by the Inspector, or the owner has obtained a certificate under section 9 of this Act.

7. If the Inspector is satisfied that such boiler or prime mover is in good condition, and not so exposed as to be likely to be dangerous,

and, in case any alteration or addition in such boiler or prime mover has been ordered under the last preceding section, as soon as he is satisfied that such alteration or addition has been properly made,

he shall give to the owner or person in charge thereof a certificate signed by him to that effect in the form in the Schedule hereto annexed, on payment, by the owner or person in charge, of such fees as may be fixed under the rules herein before mentioned;

and such certificate shall state the period for which such boiler or prime mover may be used, and shall cease to be in force on the expiration of such period.

8. Any person authorized by the Lieutenant-Governor in that behalf may revoke or suspend any certificate granted under this Act when he has reason to believe—

- (1) That such certificate has been fraudulently obtained, or has been granted erroneously, or without sufficient inspection;

- (2) That the boiler or prime mover in respect of which it has been granted is not in charge of a person competent to have charge of it, or has since the granting of such certificate sustained injury, or is not in good condition.

9. The owner of any boiler or prime mover dissatisfied with any notice or order under sections 6, 7, or 8 of this Act may, within seven days from receipt thereof, appeal either to some person authorized by the Lieutenant-Governor in that behalf, or to some such person assisted by two experts as assessors.

If such person is satisfied that the owner is entitled to a certificate, he shall, on payment of the fee, grant a certificate in the form in the Schedule hereto annexed, or shall allow the former certificate to continue in force, as the case may be, and shall direct that the expenses of the appeal incurred by Government and certified to by him shall be paid out of the fees and penalties realised under this Act.

If such person decides that the owner is not entitled to a certificate, he shall dismiss the appeal, and the expenses of the appeal incurred and certified in manner aforesaid shall be recoverable from the owner as a fine by any Magistrate having jurisdiction in the place where the boiler or prime mover is situated.

10. Any Inspector appointed under this Act may at any time enter into any place where he has reason to believe that a boiler or prime mover is used, for the purpose of inspecting the same.

11. The owner or person in charge of any boiler or prime mover who shall use, or, after conviction, continue to use the same without a certificate duly obtained and in force in respect thereof under this Act, or having obtained a certificate shall at any reasonable time during the period for which the same may be in force, fail to produce it when called upon to do so by any Magistrate having jurisdiction in the place in which such boiler or prime mover is situated, or by any person authorized in writing by such Magistrate to demand its production, and

any person who shall prevent an Inspector from entering any place or building where the Inspector has reason to believe that a boiler or prime mover is used,

shall be punished with a fine not exceeding five hundred rupees.

12. No charge shall be brought against any person for the recovery of any penalty under this Act before such day as the Lieutenant-Governor shall fix by notification in the *Calcutta Gazette*; and no charge at all shall be brought without the authority of an Inspector appointed under this Act, or after the expiration of six months from the date of the commission of the offence.

13. All penalties to be levied under this Act shall, subject to the provisions of section 9, be disposed of in such manner as the Lieutenant-Governor shall from time to time direct.

SCHEDULE.

(See Sections 7 and 9.)

FORM OF CERTIFICATE.

Name of owner.	Description of boiler and age.	Description of prime mover and age.	Power.	When and where made.	When and where last repaired.	Time for which certificate to be in force.	REMARKS.

I, the undersigned, certify that I have examined the above-named boiler (or prime mover), and to the best of my judgment the boiler (or prime mover), as shown in the above statement, is in good condition, and is not so exposed as to be likely to be dangerous [add (in case alterations or additions have been ordered) that the alterations (or additions) required by me have been properly made.]

A. B.,
Inspector.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[Second Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 6th May 1879, is hereby promulgated for general information:—

ACT No. IV OF 1879.

An Act to repeal certain sections of Bengal Act IV of 1866, and to provide for the levy of fees upon certain passenger-boats and steam ferries.

WHEREAS it is expedient to repeal certain sections of Bengal Act IV of 1866, and to enable the local Government to levy fees upon passenger-boats and steam ferries plying for passengers, either wholly within, or partly within and partly without, the limits of the Port of Calcutta;

It is enacted as follows:—

1. Sections 63, 64, and 65 of Bengal Act IV of 1866, the Calcutta Police Act, are hereby repealed.

2. The local Government may by notification published in the *Calcutta Gazette* from time to time prescribe a scale of fees, annual or other, to be paid by the owners of passenger-boats or steam ferries plying for passengers, either wholly within, or partly within and partly without, the limits of the Port of Calcutta.

3. Whoever, being the owner of any such passenger-boat or steam ferry, refuses or neglects to pay the fee to which he is liable in accordance with such notification, shall be liable to the penalty provided for disobedience to rules made under section 7 of the Indian Ports Act, 1875.

4. This Act shall not apply to boats whose voyages ordinarily extend more than thirty miles from the limits of the Port of Calcutta.

5. This Act shall come into force on such date as the Lieutenant-Governor of Bengal may direct by notification published as aforesaid.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, MAY 28, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 6th May 1879, is hereby promulgated for general information :—

ACT No. IV OF 1879.

An Act to repeal certain sections of Bengal Act IV of 1866, and to provide for the levy of fees upon certain passenger-boats and steam ferries.

WHEREAS it is expedient to repeal certain sections of Bengal Act IV of 1866, and to enable the local Government to levy fees upon passenger-boats and steam ferries plying for passengers, either wholly within, or partly within and partly without, the limits of the Port of Calcutta ;

It is enacted as follows :—

1. Sections 63, 64, and 65 of Bengal Act IV of 1866, the Calcutta Police Act, are hereby repealed.

Repeal of sections 63 to 65 of Calcutta Police Act.

2. The local Government may by notification published in the *Calcutta Gazette* from time to time prescribe a scale of fees, annual or other, to be paid by the owners of passenger-boats or steam ferries plying for passengers, either wholly within, or partly within and partly without, the limits of the Port of Calcutta.

3. Whoever, being the owner of any such passenger-boat or steam ferry, refuses or neglects to pay the fee to which he is liable in accordance with such notification, shall be liable to the penalty provided for disobedience to rules made under section 7 of the Indian Ports Act, 1875.

4. This Act shall not apply to boats whose voyages ordinarily extend more than thirty miles from the limits of the Port of Calcutta.

5. This Act shall come into force on such date as the Lieutenant-Governor of Bengal may direct by notification published as aforesaid.

W. E. H. FORSTH,
Offg. Asst. Secy. to the Govt. of Bengal.

[First Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 14th May 1879, is hereby promulgated for general information:—

ACT No. V OF 1879.

An Act to consolidate and amend the law relating to jute warehouses and fire-brigades.

WHEREAS it is expedient to consolidate and amend the law relating to jute warehouses and fire-brigades: It is enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called "the Jute Warehouse and Fire Brigade Act, 1879."

With the exception of Part III and Section 25, it applies to Calcutta, and to such portions of the Suburbs thereof as are for the time being subject to the operation of Bengal Act II of 1866, and also to the Municipality of Howrah.

Part III and Section 25 apply only to Calcutta and the portions of the Suburbs aforesaid.

And it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act II of 1872, Bengal Act II of 1875, and Bengal Act I of 1877, are hereby repealed.

But all bye-laws and appointments made under the said Acts and now in force shall be deemed to have been made under this Act.

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

"Jute" and "Cotton" mean respectively "Jute" and "Cotton" which have not been pressed or screwed as if for shipment.

"Person." "Person" includes a firm and a Hindu undivided family.

"Magistrate" includes a Justice of the Peace for Calcutta, and any person exercising all or any of the powers of a Magistrate.

"Jute Warehouse" means any warehouse, store, dépôt, yard, godown, or other place used for the storing, keeping, pressing, or depositing of jute or cotton, or other substance for the time being subject to the operation of this Act.

"The Commissioners." "The Commissioners" means the Corporation of the town of Calcutta.

PART II.

JUTE WAREHOUSES.

4. No jute warehouse shall be used for the storing, keeping, pressing, or depositing of jute or cotton, unless the owner or occupier thereof shall have previously obtained a license for such use.

5. From and after the commencement of this Act every license granted to a jute warehouse within the town of Calcutta under Bengal Act II of 1872 or Bengal Act II of 1875, shall be subject to the payment of an annual fee, to be fixed by the Local Government, after consulting the Commissioners at a special meeting, and to be paid in such instalments as the Commissioners may direct.

In fixing the amount of fee to be paid in respect of any jute warehouse, the Local Government shall have regard to the annual value thereof as it is for the time assessed, to the payment of municipal taxes, to the size and position of the jute warehouse, to the number and excellence of the pressing machines erected or proposed to be erected in such jute warehouse, and to the probable income derived from such jute warehouse by its owner or occupier.

The Local Government may from time to time, on the recommendation of the Commissioners at a special meeting, alter the amount of the fee to be paid in respect of any jute warehouse.

6. Any person proposing to use any land for the purposes of a jute warehouse within the town of Calcutta shall send to the Commissioners a plan of such land and all the buildings thereon, prepared in such manner as the Commissioners may direct, and it shall be within the discretion of the Commissioners at a special meeting to grant or refuse a license to establish the same.

Every license for a jute warehouse, to be granted under this section, shall be subject to the following conditions, namely—

- (1) That no loose jute, jute rejections or cuttings, or cotton, shall be stored, or screwed, or pressed, save within a building constructed of such materials, and on such a plan as may be approved of by the Commissioners.
- (2) That no loose jute, jute rejections or cuttings, or cotton, shall be combed or dried except within an enclosure, and that the top or roof of any building or of any hut shall not be used for such combing or drying without the sanction in writing of the Commissioners.
- (3) That space shall be reserved on land appertaining to the jute warehouse for the loading or unloading of carts.
- (4) That no portion of the jute warehouse shall be used as a residence, and no artificial light (other than one duly and thoroughly protected) or lucifer matches shall be introduced therein, and that no person shall smoke therein.
- (5) That the jute warehouse shall at all times be open to the inspection of officers duly appointed by the Commissioners.
- (6) That the engines and furnaces used in the jute warehouse shall be placed as may be considered necessary by the Commissioners.

(7) That an annual fee shall be imposed in respect thereof as provided by the last preceding section.

7. The Commissioners shall appoint suitable officers for the inspection of jute warehouses within the town of Calcutta; and any officer so appointed, and any superintendent or inspector of police within the said town, may enter at any time into any jute warehouse, where jute or cotton may be kept, and inspect the same.

8. On a change in the occupation of any jute warehouse, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Commissioners of such change of occupation, and shall thereupon pay to the Commissioners a fee of two rupees; and his name shall accordingly be substituted in such license for the name of the last occupier.

If any jute warehouse is let out in portions, the person so letting it out and entitled to the rent shall, for the purposes of this Act, be deemed to be the occupier.

9. It shall be in the discretion of the Commissioners at a special meeting to cancel or to suspend for such time as they shall think fit the license of any jute warehouse in respect of which any one or more of the conditions under which such license is held shall appear to them to have been broken, or in respect of which the provisions of the last preceding section have been broken.

10. The provisions of the five last preceding sections shall apply to any jute warehouse situated or used, or any land proposed to be used as a jute warehouse out of the town of Calcutta and within the limits of the operation of this Act, save that the powers and duties conferred and imposed respectively on the Commissioners, or on the Commissioners at a special meeting, shall be exercised and discharged by the Municipal Commissioners at a meeting within whose jurisdiction such warehouse or land is situated.

PENALTIES.

11. Any person who without a license uses any jute warehouse for keeping or depositing jute or cotton, shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees for each day during which he may use or continue to use such jute warehouse as aforesaid.

12. Any person who without a license uses any jute warehouse for keeping or depositing jute or cotton established after the commencement of this Act, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for every day during which such jute warehouse is used for keeping or depositing jute or cotton without a license.

13. Any person who uses a jute warehouse for the keeping or depositing of jute or cotton after the Commissioners or Municipal Commissioners shall have refused or cancelled a license in respect thereof or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding one hundred rupees for every day during which any such jute warehouse may be so used as aforesaid.

14. Whenever any of the conditions under which a license is held in respect of any jute warehouse have been broken in such jute warehouse, the person whose name appears on the license as the occupier of such jute warehouse shall be liable, on conviction before a Magistrate, to have his license cancelled, or to a fine not exceeding five hundred rupees.

15. Any person who breaks any of the conditions under which a license is held in respect of any jute warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

16. If on a change in the occupation of any jute warehouse, the person entering into occupation fail to give the notice required by section 8 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

PART III.

FIRE-BRIGADE.

17. The Commissioner of Police for the town of Calcutta shall, as soon as may be after the commencement of this Act, take charge of the existing fire-brigade, with all buildings, engines, animals, accoutrements, tools and implements, and thereafter from time to time make such further or other provision as he may deem expedient in order to maintain it efficiently for the town and suburbs of Calcutta.

18. The Local Government may from time to time make, and when made, alter or repeal such general or special orders as it may think fit—

For appointing or removing any member or officer of the force.

For furnishing the fire-brigade with such fire-engines, fire-escapes, horses, oxen, accoutrements, tools and implements as it may think proper.

For building, providing, or hiring places for the keeping of the force, engines, horses and appurtenances.

For giving gratuities to persons who have given notice of fires.

For the training, discipline, good conduct, salaries, and pensions of the members of the force.

For the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm of fire.

For sending the force, engines and appurtenances beyond the limits of the town and suburbs of Calcutta in order to extinguish fire in the neighbourhood of the said limits.

For imposing and summarily realizing a fine not exceeding one week's wages from any member of the brigade who may infringe these bye-laws.

Generally, for the maintenance of the fire-brigade in a due state of efficiency.

Such orders shall be published in the *Calcutta Gazette*, and shall take effect from such publication.

19. On the occasion of a fire, the chief or other officer in charge of the fire-brigade on the spot may

(a) remove, or may order any member of the brigade to remove, any persons who by their presence interfere with the due operation of the brigade;

(b) by himself or by his men break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible;

(c) cause the mains and pipes of any district to be shut off, so as to give greater pressure of water in the place where the fire has occurred;

(d) call on the officer in charge of the Port Commissioners' fire-engine to render such assistance as may be possible in the case of any fire occurring near the river bank;

(e) and, generally, take such measures as may appear necessary for the preservation of life and property.

The chief officer on the spot in charge of the brigade may verbally nominate and depute one or more officers of the brigade to act at a distance, and such officer or officers shall have for the time being the like powers as the chief officer himself possesses under this section.

Police officers of all grades shall be authorized to aid the fire-brigade in the execution of its duties.

They may close any street in or near which a fire is burning, and they may, of their own motion or on the request of the chief or other officer of the fire-brigade, remove any persons who interfere by their presence with the operations of the fire-brigade.

Any damage done by the fire-brigade in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance of property in Calcutta or the suburbs against fire.

But nothing in this section shall exempt any officer of the police or of the fire-brigade from liability to damages on account of any acts done by him without reasonable cause.

20. In the case of any fire occurring in Calcutta or the suburbs, the chief officer of the fire-brigade shall ascertain the facts as to the origin and cause of such fire, and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have occurred, and the said Magistrate, in any case where he may see fit, shall summon

witnesses and take evidence in order to the further ascertainment of such facts.

LICENSES AND PENALTIES IN RESPECT OF FIREWORKS, ETC.

21. Whoever shall let off rockets or send up fire-balloons without a license from the Commissioner of Police, for which a fee not exceeding ten rupees shall

be payable, and whoever shall sell or manufacture fireworks without a license from the Commissioner of Police, for which a yearly fee not exceeding ten rupees shall be payable, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for every such offence.

22. The Commissioner of Police may at his discretion, and after thirty days' notice, withdraw or suspend any license granted by him under this Act.

23. In the event of any rockets being let off, or fire-balloons sent up, within the precincts of any private premises or compound without the express permission in writing of the Commissioner of Police, the occupier or owner, or person under whose immediate control the said premises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove who the person having committed the offence is, and that the offence was committed without his knowledge.

PART IV.

APPLICATION OF FUNDS AND APPORTIONMENT OF EXPENSES.

24. The Commissioners and Municipal Commissioners of the Suburbs and Howrah respectively shall apply the moneys derived from the fees and penalties levied under this Act within their respective jurisdictions—

(1) in payment of the expenses of a fire-brigade;

(2) in payment of all expenses incurred by them respectively in or about the inspection and superintendence of jute warehouses, and the granting of licenses in respect thereof.

Any balance which may remain after payment of such expenses shall be applied in reduction of the fees levied on licenses for jute warehouses under this Act.

25. The cost of all establishments and plant hired or purchased, and of all other charges under Part III of this Act, shall be contributed by the Commissioners for the town of Calcutta, and by the Suburban Commissioners in the following proportions, namely—by the Commissioners for the town of Calcutta, seven-tenths; by the Suburban Commissioners three-tenths. At the end of each quarter of a year the Commissioner of Police shall certify to the Calcutta and Suburban Commissioners respectively the total cost of the fire-brigade for such quarter, the money which may have accrued from the fees and penalties levied under this Act in Calcutta and the Suburbs, and the precise sum which must be

paid by the said Commissioners respectively. On the receipt of such certificate, the said Commissioners shall forthwith pay the sum certified against them, provided that in no case shall the three-tenths payable in any year by the Suburban Commissioners exceed the sum of ten thousand rupees.

PART V.

MISCELLANEOUS.

26. The Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners passed by resolution, declare that any other fibre or any commodity which is stored or deposited in warehouses besides jute or cotton, shall be warehoused, and kept subject to the provisions of Part II of this Act. When such declaration shall have been made in the *Calcutta Gazette*, this Act shall be read as if the name or names of the said fibre or commodity had been printed in addition to the words "jute" or "cotton" in the several sections of Part II, wherein the said words "jute" or "cotton" may occur.

27. The Commissioners for the town of Calcutta and Municipal Commissioners, respectively, shall make a report to the Lieutenant-Governor once a year, at such time as the Lieutenant-Governor shall direct, showing how the provisions of this Act have been carried out, and specifying the jute warehouses in respect of which licenses have been granted. Such report shall be forthwith published in the *Calcutta Gazette*.

28. Any person committing any offence in respect of which a penalty is provided by section 15 or section 23 of this Act may, if his name and address be unknown, be arrested by any officer of police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence has been committed, or shall be taken to the nearest police-station within the said jurisdiction in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into

recognizance with or without sureties for his appearance before a Magistrate.

29. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

30. Every license granted under Part II of this Act shall, as far as possible, be in the form in the schedule to this Act annexed.

31. Nothing in this Act shall be deemed to apply to places wherein small quantities of jute, not exceeding four maunds at any one time, are deposited for the purpose of any manufacture or retail trade.

SCHEDULE.

(See Section 30.)

License under Bengal Act V of 1879.

No. of 187 The Corporation of the Town of Calcutta hereby grant unto this License under Bengal Act V of 1879 to store and press jute in premises No.

Calcutta, subject to the conditions noted on the back; and they hereby acknowledge to have received the sum of Rs. being the License Fee due by the said from 187 in respect of the aforesaid premises at the rate of Rs. per annum.

Name of owner _____
Name of occupier _____

Secretary to the Corporation
of the Town of Calcutta.

The day of

W. E. H. FORSYTH,
Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, JUNE 4, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 14th May 1879, is hereby promulgated for general information:—

ACT No. V OF 1879.

An Act to consolidate and amend the law relating to jute warehouses and fire-brigades.

WHEREAS it is expedient to consolidate and amend the law relating to jute warehouses and fire-brigades: It is enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called "the Jute Warehouse and Fire Brigade Act, 1879."

With the exception of Part III and Section 25, it applies to Calcutta, and to such portions of the

Suburbs thereof as are for the time being subject to the operation of Bengal Act II of 1866, and also to the Municipality of Howrah.

Part III and Section 25 apply only to Calcutta and the portions of the Suburbs aforesaid.

And it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act II of 1872, Bengal Act II of 1875, and Bengal Act I of 1877, are hereby repealed.

But all bye-laws and appointments made under the said Acts and now in force shall be deemed to have been made under this Act.

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

Definitions.

"Jute" and "Cotton" mean respectively "Jute" and "Cotton",

"Jute."

"Cotton."

"Person."

"Person" includes a firm and a Hindu undivided family.

"Magistrate" includes a Justice of the Peace for Calcutta, and any person exercising all or any of the

powers of a Magistrate.

"Jute Warehouse" means any warehouse, store, dépôt, yard, godown, or other place used for the storing, keeping, pressing, or depositing of jute or cotton, or other substance for the time being subject to the operation of this Act.

"The Commissioners." "The Commissioners" means the Corporation of the town of Calcutta.

PART II.

JUTE WAREHOUSES.

4. No jute warehouse shall be used for the storing, keeping, pressing, or depositing of jute or cotton, unless the owner or occupier thereof shall have previously obtained a license for such use.

5. From and after the commencement of this Act every license granted to a jute warehouse within the town of Calcutta under Bengal Act II of 1872 or Bengal Act II of 1875, shall be subject to the payment of an annual fee, to be fixed by the

Local Government, after consulting the Commissioners at a special meeting, and to be paid in such instalments as the Commissioners may direct.

In fixing the amount of fee to be paid in respect of any jute warehouse, the Local Government shall have regard to the annual value thereof as it is for the time assessed, to the payment of municipal taxes, to the size and position of the jute warehouse, to the number and excellence of the pressing machines erected or proposed to be erected in such jute warehouse, and to the probable income derived from such jute warehouse by its owner or occupier.

The Local Government may from time to time, on the recommendation of the Commissioners at a special meeting, alter the amount of the fee to be paid in respect of any jute warehouse.

6. Any person proposing to use any land for the purposes of a jute warehouse within the town of Calcutta shall send to the Commissioners a plan of such land and all the buildings thereon, prepared in such manner as the Commissioners may direct, and it shall be within the discretion of the Commissioners at a special meeting to grant or refuse a license to establish the same.

Every license for a jute warehouse, to be granted under this section, shall be subject to the following conditions, namely—

- (1) That no loose jute, jute rejections or cuttings, or cotton, shall be stored, or screwed, or pressed, save within a building constructed of such materials, and on such a plan as may be approved of by the Commissioners.
- (2) That no loose jute, jute rejections or cuttings, or cotton, shall be combed or dried, except within an enclosure, and that the top or roof of any building or of any hut shall not be used for such combing or drying without the sanction in writing of the Commissioners.
- (3) That space shall be reserved on land appertaining to the jute warehouse for the loading or unloading of carts.
- (4) That no portion of the jute warehouse shall be used as a residence, and no artificial light (other than one duly and thoroughly protected) or lucifer matches shall be introduced therein, and that no person shall smoke therein.
- (5) That the jute warehouse shall at all times be open to the inspection of officers duly appointed by the Commissioners.
- (6) That the engines and furnaces used in the jute warehouse shall be placed as may be considered necessary by the Commissioners.
- (7) That an annual fee shall be imposed in respect thereof as provided by the last preceding section.

7. The Commissioners shall appoint suitable officers for the inspection of jute warehouses within the town of Calcutta; and any office so appointed, and any superintendent or

inspector of police within the said town, may enter at any time into any jute warehouse, where jute or cotton may be kept, and inspect the same.

8. On a change in the occupation of any jute warehouse, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Commissioners of such change of occupation, and shall thereupon pay to the Commissioners a fee of two rupees; and his name shall accordingly be substituted in such license for the name of the last occupier.

If any jute warehouse is let out in portions, the person so letting it out and entitled to the rent shall, for the purposes of this Act, be deemed to be the occupier.

9. It shall be in the discretion of the Commissioners at a special meeting to cancel or to suspend for such time as they shall think fit the license of any jute warehouse in respect of which any one or more of the conditions under which such license is held shall appear to them to have been broken, or in respect of which the provisions of the last preceding section have been broken.

10. The provisions of the five last preceding sections shall apply to any jute warehouse situated or used, or any land proposed to be used as a jute warehouse out of the town of Calcutta and within the limits of the operation of this Act, save that the powers and duties conferred and imposed respectively on the Commissioners, or on the Commissioners at a special meeting, shall be exercised and discharged by the Municipal Commissioners at a meeting within whose jurisdiction such warehouse or land is situated.

PENALTIES.

11. Any person who without a license uses any jute warehouse for keeping or depositing jute or cotton, shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees for each day during which he may use or continue to use such jute warehouse as aforesaid.

12. Any person who without a license uses any jute warehouse for keeping or depositing jute or cotton established after the commencement of this Act, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding fifty rupees for every day during which such jute warehouse is used for keeping or depositing jute or cotton without a license.

13. Any person who uses a jute warehouse for the keeping or depositing of jute or cotton after the Commissioners or Municipal Commissioners shall have refused or cancelled a license in respect thereof, or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding

On change of occupation in warehouse, occupier to give notice.

Cancelment or suspension of license.

Municipal Commissioners to have same power as the Calcutta Commissioners.

Penalty for not taking out license.

Penalty for establishing warehouse without license.

Penalty for using warehouse after refusal of license.

five hundred rupees, and to a further penalty not exceeding one hundred rupees for every day during which any such jute warehouse may be so used as aforesaid.

14. Whenever any of the conditions under which a license is held in respect of any jute warehouse have been broken in such jute warehouse, the person whose name appears on the license as the occupier of such jute warehouse shall be liable, on conviction before a Magistrate, to have his license cancelled, or to a fine not exceeding five hundred rupees.

15. Any person who breaks any of the conditions under which a license is held in respect of any jute warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

16. If on a change in the occupation of any jute warehouse, the person entering into occupation fail to give the notice required by section 8 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

PART III.

FIRE-BRIGADE.

17. The Commissioner of Police for the town of Calcutta shall, as soon as may be after the commencement of this Act, take charge of the existing fire-brigade, with all buildings, engines, animals, accoutrements, tools and implements, and thereafter from time to time make such further or other provision as he may deem expedient in order to maintain it efficiently for the town and suburbs of Calcutta.

18. The Local Government may from time to time make, and when made, alter or repeal such general or special orders as it may think fit—

For appointing or removing any member or officer of the force.

For furnishing the fire-brigade with such fire-engines, fire-escapes, horses, oxen, accoutrements, tools and implements as it may think proper.

For building, providing, or hiring places for the keeping of the force, engines, horses and appurtenances.

For giving gratuities to persons who have given notice of fires.

For the training, discipline, good conduct, salaries, and pensions of the members of the force.

For the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm of fire.

For sending the force, engines and appurtenances beyond the limits of the town and suburbs of Calcutta in order to extinguish fire in the neighbourhood of the said limits.

For imposing and summarily realizing a fine not exceeding one week's wages from any member of the brigade who may infringe these bye-laws.

Generally, for the maintenance of the fire-brigade in a due state of efficiency.

Such orders shall be published in the *Calcutta Gazette*, and shall take effect from such publication.

19. On the occasion of a fire, the chief or other officer in charge of the fire-brigade on the spot may

(a) remove, or may order any member of the brigade to remove, any persons who by their presence interfere with the due operation of the brigade;

(b) by himself or by his men break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible;

(c) cause the mains and pipes of any district to be shut off, so as to give greater pressure of water in the place where the fire has occurred;

(d) call on the officer in charge of the Port Commissioners' fire-engine to render such assistance as may be possible in the case of any fire occurring near the river bank;

(e) and, generally, take such measures as may appear necessary for the preservation of life and property.

The chief officer on the spot in charge of the brigade may verbally nominate and depute one or more officers of the brigade to act at a distance, and such officer or officers shall have for the time being the like powers as the chief officer himself possesses under this section.

Police officers of all grades shall be authorized to aid the fire-brigade in the execution of its duties.

They may close any street in or near which a fire is burning, and they may, of their own motion or on the request of the chief or other officer of the fire-brigade, remove any persons who interfere by their presence with the operations of the fire-brigade.

Any damage done by the fire-brigade in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance of property in Calcutta or the suburbs against fire.

But nothing in this section shall exempt any officer of the police or of the fire-brigade from liability to damages on account of any acts done by him without reasonable cause.

20. In the case of any fire occurring in Calcutta or the suburbs, the chief officer of the fire-brigade shall ascertain the facts as to the origin and cause of such fire, and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have occurred, and the said Magistrate, in any case where he may see fit, shall summon witnesses and take evidence in order to the further ascertainment of such facts.

LICENSES AND PENALTIES IN RESPECT OF FIREWORKS, ETC.

21. Whoever shall let off rockets or send up fire-balloons without a license from the Commissioner of Police, for which a fee not exceeding ten rupees shall be payable,

Penalty for letting off rockets and manufacturing or selling fireworks without license.

and whoever shall sell or manufacture fire-works without a license from the Commissioner of Police, for which a yearly fee not exceeding ten rupees shall be payable,

shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for every such offence.

22. The Commissioner of Police may at his discretion, and after thirty days' notice, withdraw or suspend any license granted by him under this Act.

23. In the event of any rockets being let off, or fire-balloons sent up, within the precincts of any private premises or compound without the express permission in writing of the Commissioner of Police, the occupier or owner, or person under whose immediate control the said premises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove who the person having committed the offence is, and that the offence was committed without his knowledge.

PART IV.

APPLICATION OF FUNDS AND APPORTIONMENT OF EXPENSES.

24. The Commissioners and Municipal Commissioners of the Suburbs and Howrah respectively shall apply the moneys derived from the fees and penalties levied under this Act within their respective jurisdictions—

(1) in payment of the expenses of a fire-brigade;

(2) in payment of all expenses incurred by them respectively in or about the inspection and superintendence of jute warehouses, and the granting of licenses in respect thereof.

Any balance which may remain after payment of such expenses shall be applied in reduction of the fees levied on licenses for jute warehouses under this Act.

25. The cost of all establishments and plant hired or purchased, and of all other charges under Part III of this Act, shall be contributed by the Commissioners for the town of Calcutta, and by the Suburban Commissioners in the following proportions, namely—by the Commissioners for the town of Calcutta, seven-tenths; by the Suburban Commissioners, three-tenths. At the end of each quarter of a year the Commissioner of Police shall certify to the Calcutta and Suburban Commissioners respectively the total cost of the fire-brigade for such quarter, the money which may have accrued from the fees and penalties levied under this Act in Calcutta and the Suburbs, and the precise sum which must be paid by the said Commissioners respectively. On the receipt of such certificate, the said Commissioners shall forthwith pay the sum certified against them, provided that in no case shall the three-tenths payable in any year by the Suburban Commissioners exceed the sum of ten thousand rupees.

PART V.

MISCELLANEOUS.

26. The Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners passed by resolution, declare that any other fibre or any commodity which is stored or deposited in warehouses besides jute or cotton, shall be warehoused, and kept subject to the provisions of Part II of this Act. When such declaration shall have been made in the *Calcutta Gazette*, this Act shall be read as if the name or names of the said fibre or commodity had been printed in addition to the words "jute" or "cotton" in the several sections of Part II, wherein the said words "jute" or "cotton" may occur.

27. The Commissioners for the town of Calcutta and Municipal Commissioners respectively shall make a report to the Lieutenant-Governor once a year, at such time as the Lieutenant-Governor shall direct, showing how the provisions of this Act have been carried out, and specifying the jute warehouses in respect of which licenses have been granted. Such report shall be forthwith published in the *Calcutta Gazette*.

28. Any person committing any offence in respect of which a penalty is provided by section 15 or section 23 of this Act may, if his name and address be unknown, be arrested by any officer of police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence has been committed, or shall be taken to the nearest police-station within the said jurisdiction in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizance with or without sureties for his appearance before a Magistrate.

29. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

30. Every license granted under Part II of this Act shall, as far as possible, be in the form in the schedule to this Act annexed.

31. Nothing in this Act shall be deemed to apply to places wherein small quantities of jute, not exceeding four maunds at any one time, are deposited for the purpose of any manufacture or retail trade.

SCHEDULE.

(See Section 30.)

License under Bengal Act V of 1879.

No. of 187

The Corporation of the Town of Calcutta hereby grant unto this License under Bengal Act V of 1879 to store and press jute in premises No. Calcutta, subject to the conditions noted on the back; and

they hereby acknowledge to have received the sum of Rs. being the License Fee due by the said from 187 in respect of the aforesaid premises at the rate of Rs. per annum.

Name of owner

Name of occupier

Secretary to the Corporation
of the Town of Calcutta.

The day of

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[First Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 16th April 1879, and having received the assent of His Excellency the Governor-General on the 20th May 1879, is hereby promulgated for general information:—

ACT No. VI OF 1879.

An Act to provide for the construction of a Steam Tramway between Siligoree and Darjeeling.

WHEREAS a Company has been formed called the Darjeeling Steam Tramway Company, Limited,

Hereinafter called the Company, for the purpose of constructing, maintaining, and working a steam tramway from Siligoree to Darjeeling, and whereas an agreement bearing date the eighth day of April eighteen hundred and seventy-nine has been entered into between Franklin Prestage, Esq., as trustee on behalf of the Company, and the Secretary of State for India in Council, for the above purpose, and whereas it is expedient that the Company should be authorized to construct, maintain, and work a steam tramway upon the existing cart road between Siligoree and Darjeeling as aforesaid, and to do all things necessary in that behalf; It is enacted as follows:—

1. This Act may be called The Darjeeling Steam Tramway Act; and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. The Company may construct and maintain upon the said existing cart road between Siligoree and Darjeeling a tramway, conformable to the specification and conditions set forth in the hereinbefore mentioned agreement between the said trustee for the Company and the said Secretary of State, or any agreement which may hereafter be entered into between the Company and the said Secretary of State, with all proper rails, sidings, stations, offices, warehouses, fixed machinery and other works connected therewith or for the purposes thereof, and use and employ upon such tramway such locomotive engines or other moving power, and such carriages or wagons to be drawn or propelled thereby, as they may deem fit.

3. The Company may, with the permission of such officer as the Local Government may from time to time empower in that behalf, obstruct the said cart road, but in such case the Company shall provide such accommodation for the local traffic during such obstruction as the said officer shall direct.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[First Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 16th April 1879, and having received the assent of His Excellency the Governor-General on the 22nd May 1879, is hereby promulgated for general information:—

ACT No. VII OF 1879.

An Act to provide for the proper management of certain Inland Steam Vessels.

Whereas it is expedient that inland steam vessels of a burden exceeding one hundred tons should be commanded by competent persons, and it is therefore desirable to provide for the examination of commanders of such vessels and for the granting of certificates to them: It is enacted as follows:—

1. "Inland steam vessel" in this Act means Definition of "inland steam vessel." a steam vessel of a burden exceeding one hundred tons engaged in the inland trade of Bengal which in the course of its ordinary voyage traverses at any time of the year any part of the river Hooghly below the town of Calcutta.

2. The local Government may from time to time make, alter, add to, or repeal rules for the examination of, and the granting of certificates to, commanders of inland steam vessels;

Provided that the first rules made under this Act shall be published in the *Calcutta Gazette* at least two months before they take effect.

3. Every inland steam vessel shall be commanded by a person holding a certificate duly in force under the said rules.

4. If any such vessel is not so commanded, the owner thereof shall be liable, on conviction before a Magistrate, to a fine not exceeding one thousand rupees; and such fine may from time to time be reimposed on the said owner after the expiration of one month from the last previous conviction, so long as the provisions of section 3 are not complied with in respect of such vessel.

5. A Commander of any inland steam vessel who holds a certificate duly in force under the said rules shall be deemed to be a pilot in respect of such vessel for the purposes of section 38 of the Indian Ports Act, 1875.

6. In any of the cases following (namely):—

(a) Whenever any inland steam vessel is wrecked, abandoned, or materially damaged in any

part of the River Hooghly below the town of Calcutta;

(b) Whenever any such vessel causes loss or material damage to any other inland steam vessel or to any sea-going vessel in the aforesaid part of the river Hooghly;

(c) Whenever, by reason of any casualty happening to or on board of any inland steam vessel in the aforesaid part of the river Hooghly, loss of life ensues;

The Commander shall give immediate notice of such wreck, abandonment, loss, damage, or casualty, to the Port Officer of Calcutta.

Any Commander wilfully failing to give notice under this section shall be liable to a fine not exceeding five hundred rupees.

The Port Officer receiving such notice shall without delay communicate the same to the local Government.

7. If in any such case a formal investigation appears to the local Government to be requisite or expedient, the local Government may order such investigation, and the provisions of section 4, sections 6 to 11 (both inclusive), and sections 15 and 16 of the Indian Merchant Shipping Act, 1875, shall be applicable, as far as may be, to all proceedings under this section.

8. The local Government may suspend or cancel the certificate of any Commander as aforesaid if he is reported by the court making such investigation to be incompetent, or to have been guilty of misconduct, or if he has been convicted of a non-bailable offence.

9. No proceedings shall be taken against any person for the recovery of a penalty under this Act before such day as the Lieutenant-Governor may fix by notification in the *Calcutta Gazette*.

10. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the consent of the Governor-General.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[First Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 17th April 1879, and having received the assent of His Excellency the Governor-General on the 22nd May 1879, is hereby promulgated for general information:—

Act No. VIII of 1879.

An Act to define and limit the powers of Settlement Officers.

WHEREAS it is expedient to define and limit the powers of Settlement Officers: It is enacted as follows:—

1. This Act extends to all the territories under the administration of the Lieutenant-Governor of Bengal, and

it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act No. III of 1878 (an Act to define and limit the powers of settlement officers with respect to enhancement of rent) is hereby repealed.

3. In this Act—
"Settlement Officer" means the Collector or any officer in charge of the revenue jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector, or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the enquiries and proceedings connected with any settlement of land revenue, and any officer who may be appointed by the Lieutenant-Governor to make any such settlement;

"Under-tenant" means any holder of a heritable and transferable intermediate tenure between the Government and the ryot other than a zemindar.

4. Nothing contained in section 51 of Regulation VIII of 1793, or in sections 13, 14, and 17 of Act X of 1859, or in sections 14, 15, and 18 of Bengal Act VIII of 1869, shall affect any settlement proceedings under Regulation VII of 1822, or under any other law for the time being in force for the regulation of settlements of land revenue.

5. In any such settlement proceedings the rent recorded as demandable from each ryot shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the revenue authorities from time to time empowered in that behalf by the Lieutenant-Governor.

6. The Settlement Officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable from any ryot having a right of occupancy than the rent which was previously paid by him, viz.:

(i) That the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of ryots for land of a similar description and with similar advantages in the surrounding neighbourhood.

(ii) That the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the agency, or at the expense, of the ryot since the rent of the ryot was last fixed.

(iii) That the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the ryot since the rent of the ryot was last fixed; and that such higher rent does not bear a higher proportion to the rent of such ryot as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed.

(iv) That the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the ryot since the last

previous settlement of the lands was made; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar description and the same area, according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlements, or as otherwise ascertained and certified by the Settlement Officer.

(v) That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

7. The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules:—

(a) Whenever the Settlement Officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against the Government.

(b) If the Settlement Officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten per cent. below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and ryots whose holdings fall within his tenure.

(c) If the Settlement Officer shall find that the tenure is not binding as against the Government, he shall first determine the proportionate amount of the demand of land revenue to be assessed upon the lands included in the tenure in accordance with any orders of Government for the time being in force regulating the demand of land revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land revenue or more than the aggregate of the rents recorded as payable to him from the subordinate under-tenants and ryots whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

8. When the rent demandable from any under-tenant or ryot is recorded at an amount below that to which the rent of such under-tenant or ryot might have been enhanced under this Act, it may be recorded that such under-tenant or ryot shall from time to time be liable to pay increased rent from such dates as may be fixed by the Settlement Officer, until the rent paid by him reaches the amount which the Settlement Officer may determine to be properly payable by him under this Act.

9. Whenever a higher rent has been recorded as demandable from any under-tenant or ryot than the rent previously paid by him, the Settlement Officer shall cause to be published a copy of the *jummabundi*, or extracts therefrom, specifying in respect of each such under-tenant or ryot the rent recorded as payable by him, and, in the case of a ryot, the clause or

clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the *jummabundi*, or of such extracts therefrom as the Collector may think fit, at the mal cutcherry of the village to which the *jummabundi* relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the *jummabundi* can be inspected at the office of the Settlement Officer.

10. Every under-tenant and ryot shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or ryot to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

But nothing in clause (c) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (c).

No suit under this section shall be instituted otherwise than within four months after the publication of the *jummabundi*, or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favor of the defendant for such arrears, with such costs as may seem proper.

12. If publication of the copy of a *jummabundi* or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

13. Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid, shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

14. The provisions of this Act shall apply to all settlement proceedings under Regulation VII of 1822 which may have been confirmed after the commencement of Bengal Act III of 1878, or which may hereafter be confirmed or sanctioned by the revenue authorities from time to time empowered in that behalf by the Lieutenant-Governor, whether such proceedings shall have been commenced before or after the commencement of the said Act.

W. E. H. FORSYTH,
Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, JUNE 11, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 14th May 1879, is hereby promulgated for general information:—

Act No. V of 1879.

An Act to consolidate and amend the law relating to jute warehouses and fire-brigades.

WHEREAS it is expedient to consolidate and amend the law relating to jute warehouses and fire-brigades: It is enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "the Jute Warehouse and Fire Brigade Act, 1879."

Short title.

With the exception of Part III and Section 25, it applies to Calcutta, and to such portions of the

Extent.

Suburbs thereof as are for the time being subject to the operation of Bengal Act II of 1866, and also to the Municipality of Howrah.

Part III and Section 25 apply only to Calcutta and the portions of the Suburbs aforesaid.

And it shall come into force from the date on which it may be published

Commencement.

in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act II of 1872, Bengal Act II of 1875, and Bengal Act I of 1877, are hereby repealed.

Repeal of Acts.

But all bye-laws and appointments made under the said Acts and now in force shall be deemed to have been made under this Act.

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

Definitions.

"Jute" and "Cotton" mean respectively

"Jute."

"Cotton."

"Person."

"Person" includes a firm and a Hindu undivided family.

"Magistrate" includes a Justice of the Peace

"Magistrate."

for Calcutta, and any person exercising all or any of the powers of a Magistrate.

"Jute Warehouse" means any warehouse,

"Jute warehouse."

store, depôt, yard, godown, or other place used for the storing, keeping, pressing, or depositing of jute or cotton, or other substance for the time being subject to the operation of this Act.

"The Commissioners."

"The Commissioners" means the Corporation of the town of Calcutta.

PART II.

JUTE WAREHOUSES.

4. No jute warehouse shall be used for the storing, keeping, pressing, or depositing of jute or cotton,

Existing warehouses not to be used till licensed.

unless the owner or occupier thereof shall have previously obtained a license for such use.

5. From and after the commencement of this Act every license granted to a jute warehouse within the town of Calcutta under Bengal Act II of 1872 or Bengal Act II of 1875, shall be subject to the payment of an annual fee, to be fixed by the

Fee for license for jute warehouse.

Local Government, after consulting the Commissioners at a special meeting, and to be paid in such instalments as the Commissioners may direct.

In fixing the amount of fee to be paid in respect of any jute warehouse, the Local Government shall have regard to the annual value thereof as it is for the time assessed, to the payment of municipal taxes, to the size and position of the jute warehouse, to the number and excellence of the pressing machines erected or proposed to be erected in such jute warehouse, and to the probable income derived from such jute warehouse by its owner or occupier.

The Local Government may from time to time, on the recommendation of the Commissioners at a special meeting, alter the amount of the fee to be paid in respect of any jute warehouse.

6. Any person proposing to use any land for the purposes of a jute warehouse within the town of Calcutta shall send to the Commissioners a plan of such land and all the buildings thereon, prepared in such manner as the Commissioners may direct, and it shall be within the discretion of the Commissioners at a special meeting to grant or refuse a license to establish the same.

Every license for a jute warehouse, to be granted under this section, shall be subject to the following conditions, namely—

- (1) That no loose jute, jute rejections or cuttings, or cotton, shall be stored, or screwed, or pressed, save within a building constructed of such materials, and on such a plan as may be approved of by the Commissioners.
- (2) That no loose jute, jute rejections or cuttings, or cotton, shall be combed or dried, except within an enclosure, and that the top or roof of any building or of any hut shall not be used for such combing or drying without the sanction in writing of the Commissioners.
- (3) That space shall be reserved on land appertaining to the jute warehouse for the loading or unloading of carts.
- (4) That no portion of the jute warehouse shall be used as a residence, and no artificial light (other than one duly and thoroughly protected) or lucifer matches shall be introduced therein, and that no person shall smoke therein.
- (5) That the jute warehouse shall at all times be open to the inspection of officers duly appointed by the Commissioners.
- (6) That the engines and furnaces used in the jute warehouse shall be placed as may be considered necessary by the Commissioners.
- (7) That an annual fee shall be imposed in respect thereof as provided by the last preceding section.

7. The Commissioners shall appoint suitable officers for the inspection of jute warehouses within the town of Calcutta; and any officer so appointed, and any superintendent or

inspector of police within the said town, may enter at any time into any jute warehouse, where jute or cotton may be kept, and inspect the same.

8. On a change in the occupation of any jute warehouse, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Commissioners of such change of occupation, and shall thereupon pay to the Commissioners a fee of two rupees; and his name shall accordingly be substituted in such license for the name of the last occupier.

If any jute warehouse is let out in portions, the person so letting it out and entitled to the rent shall, for the purposes of this Act, be deemed to be the occupier.

9. It shall be in the discretion of the Commissioners at a special meeting to cancel or to suspend for such time as they shall think fit the license of any jute warehouse in respect of which any one or more of the conditions under which such license is held shall appear to them to have been broken, or in respect of which the provisions of the last preceding section have been broken.

10. The provisions of the five last preceding sections shall apply to any jute warehouse situated or used, or any land proposed to be used as a jute warehouse out of the town of Calcutta and within the limits of the operation of this Act, save that the powers and duties conferred and imposed respectively on the Commissioners, or on the Commissioners at a special meeting, shall be exercised and discharged by the Municipal Commissioners at a meeting within whose jurisdiction such warehouse or land is situated.

PENALTIES.

11. Any person who without a license uses any jute warehouse for keeping or depositing jute or cotton, shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees for each day during which he may use or continue to use such jute warehouse as aforesaid.

12. Any person who without a license uses any jute warehouse for keeping or depositing jute or cotton established after the commencement of this Act, shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding fifty rupees for every day during which such jute warehouse is used for keeping or depositing jute or cotton without a license.

13. Any person who uses a jute warehouse for the keeping or depositing of jute or cotton after the Commissioners or Municipal Commissioners shall have refused or cancelled a license in respect thereof, or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding

On change of occupation in warehouse, occupier to give notice.

Cancellation or suspension of license.

Municipal Commissioners to have same power as the Calcutta Commissioners.

Penalty for not taking out license.

Penalty for establishing warehouse without license.

Penalty for using warehouse after refusal of license.

five hundred rupees, and to a further penalty not exceeding one hundred rupees for every day during which any such jute warehouse may be so used as aforesaid.

14. Whenever any of the conditions under which a license is held in respect of any jute warehouse have been broken in such jute warehouse, the person whose name appears on the license as the occupier of such jute warehouse shall be liable, on conviction before a Magistrate, to have his license cancelled, or to a fine not exceeding five hundred rupees.

15. Any person who breaks any of the conditions under which a license is held in respect of any jute warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

16. If on a change in the occupation of any jute warehouse, the person entering into occupation fail to give the notice required by section 8 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

Penalty on occupier in case of breach of conditions of license.

Penalty on any person in case of breach of conditions of license.

Penalty for omitting to give notice on change of occupation.

PART III.

FIRE-BRIGADE.

17. The Commissioner of Police for the town of Calcutta shall, as soon as may be after the commencement of this Act, take charge of the existing fire-brigade, with all buildings, engines, animals, accoutrements, tools and implements, and thereafter from time to time make such further or other provision as he may deem expedient in order to maintain it efficiently for the town and suburbs of Calcutta.

18. The Local Government may from time to time make, and when made, alter or repeal such general or special orders as it may think fit—

For appointing or removing any member or officer of the force.

For furnishing the fire-brigade with such fire-engines, fire-escapes, horses, oxen, accoutrements, tools and implements as it may think proper.

For building, providing, or hiring places for the keeping of the force, engines, horses and appurtenances.

For giving gratuities to persons who have given notice of fires.

For the training, discipline, good conduct, salaries, and pensions of the members of the force.

For the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm of fire.

For sending the force, engines and appurtenances beyond the limits of the town and suburbs of Calcutta in order to extinguish fire in the neighbourhood of the said limits.

For imposing and summarily realizing a fine not exceeding one week's wages from any member of the brigade who may infringe these bye-laws.

Generally, for the maintenance of the fire-brigade in a due state of efficiency.

Such orders shall be published in the *Calcutta Gazette*, and shall take effect from such publication.

19. On the occasion of a fire, the chief or other officer in charge of the fire-brigade on the spot may

(a) remove, or may order any member of the brigade to remove, any persons who by their presence interfere with the due operation of the brigade;

(b) by himself or by his men break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible;

(c) cause the mains and pipes of any district to be shut off, so as to give greater pressure of water in the place where the fire has occurred;

(d) call on the officer in charge of the Port Commissioners' fire-engine to render such assistance as may be possible in the case of any fire occurring near the river bank;

(e) and, generally, take such measures as may appear necessary for the preservation of life and property.

The chief officer on the spot in charge of the brigade may verbally nominate and depute one or more officers of the brigade to act at a distance, and such officer or officers shall have for the time being the like powers as the chief officer himself possesses under this section.

Police officers of all grades shall be authorized to aid the fire-brigade in the execution of its duties. They may close any street

in or near which a fire is burning, and they may, of their own motion or on the request of the chief or other officer of the fire-brigade, remove any persons who interfere by their presence with the operations of the fire-brigade.

Any damage done by the fire-brigade in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance of property in Calcutta or the suburbs against fire.

But nothing in this section shall exempt any officer of the police or of the fire-brigade from liability to damages on account of any acts done by him without reasonable cause.

20. In the case of any fire occurring in Calcutta or the suburbs, the chief officer of the fire-brigade shall ascertain the

facts as to the origin and cause of such fire, and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have occurred, and the said Magistrate, in any case where he may see fit, shall summon witnesses and take evidence in order to the further ascertainment of such facts.

LICENSES AND PENALTIES IN RESPECT OF FIREWORKS, ETC.

21. Whoever shall let off rockets or send up fire-balloons without a license from the Commissioner of Police, for which a fee not exceeding ten rupees shall be payable,

Police officers to render assistance.

Damage done to be deemed damage by fire.

Enquiry into origin of fire.

Penalty for letting off rockets and manufacturing or selling fireworks without license.

and whoever shall sell or manufacture fire-works without a license from the Commissioner of Police, for which a yearly fee not exceeding ten rupees shall be payable,

shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for every such offence.

22. The Commissioner of Police may at his discretion, and after thirty days' notice, withdraw or suspend any license granted by him under this Act.

23. In the event of any rockets being let off, or fire-balloons sent up, within the precincts of any private premises or compound without the express permission in writing of the Commissioner of Police, the occupier or owner, or person under whose immediate control the said premises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove who the person having committed the offence is, and that the offence was committed without his knowledge.

PART IV.

APPLICATION OF FUNDS AND APPORTIONMENT OF EXPENSES.

24. The Commissioners and Municipal Commissioners of the Suburbs and Howrah respectively shall apply the moneys derived from the fees and penalties levied under this Act within their respective jurisdictions—

(1) in payment of the expenses of a fire-brigade;

(2) in payment of all expenses incurred by them respectively in or about the inspection and superintendence of jute warehouses, and the granting of licenses in respect thereof.

Any balance which may remain after payment of such expenses shall be applied in reduction of the fees levied on licenses for jute warehouses under this Act.

25. The cost of all establishments and plant hired or purchased, and of all other charges under Part III of this Act, shall be contributed by the Commissioners for the town of Calcutta, and by the Suburban Commissioners in the following proportions, namely—by the Commissioners for the town of Calcutta, seven-tenths; by the Suburban Commissioners, three-tenths. At the end of each quarter of a year the Commissioner of Police shall certify to the Calcutta and Suburban Commissioners respectively the total cost of the fire-brigade for such quarter, the money which may have accrued from the fees and penalties levied under this Act in Calcutta and the Suburbs, and the precise sum which must be paid by the said Commissioners respectively. On the receipt of such certificate, the said Commissioners shall forthwith pay the sum certified against them, provided that in no case shall the three-tenths payable in any year by the Suburban Commissioners exceed the sum of ten thousand rupees.

PART V. MISCELLANEOUS.

26. The Lieutenant-Governor of Bengal may, on the recommendation of the Commissioners passed by resolution, declare that any other fibre or any commodity which is stored or deposited in warehouses besides jute or cotton, shall be warehoused, and kept subject to the provisions of Part II of this Act. When such declaration shall have been made in the *Calcutta Gazette*, this Act shall be read as if the name or names of the said fibre or commodity had been printed in addition to the words "jute" or "cotton" in the several sections of Part II, wherein the said words "jute" or "cotton" may occur.

27. The Commissioners for the town of Calcutta and Municipal Commissioners respectively shall make a report to the Lieutenant-Governor once a year, at such time as the Lieutenant-Governor shall direct, showing how the provisions of this Act have been carried out, and specifying the jute warehouses in respect of which licenses have been granted. Such report shall be forthwith published in the *Calcutta Gazette*.

28. Any person committing any offence in respect of which a penalty is provided by section 15 or section 23 of this Act may, if his name and address be unknown, be arrested by any officer of police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence has been committed, or shall be taken to the nearest police-station within the said jurisdiction in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizance with or without sureties for his appearance before a Magistrate.

29. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

30. Every license granted under Part II of this Act shall, as far as possible, be in the form in the schedule to this Act annexed.

31. Nothing in this Act shall be deemed to apply to places wherein small quantities of jute, not exceeding four maunds at any one time, are deposited for the purpose of any manufacture or retail trade.

SCHEDULE.

(See Section 30.)

License under Bengal Act V of 1879.

No. of 187

The Corporation of the Town of Calcutta hereby grant unto this License under Bengal Act V of 1879 to store and press jute in premises No.

Calcutta, subject to the conditions noted on the back; and

they hereby acknowledge to have received the sum of Rs. being the License Fee due by the said from

to 187 in respect of the aforesaid premises at the rate of Rs. per annum.

Name of owner

Name of occupier

Secretary to the Corporation
of the Town of Calcutta.

The day of

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[Second Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 16th April 1879, and having received the assent of His Excellency the Governor-General on the 20th May 1879, is hereby promulgated for general information:—

Act No. VI of 1879.

An Act to provide for the construction of a Steam Tramway between Siligoree and Darjeeling.

WHEREAS a Company has been formed called the Darjeeling Steam Tramway Company, Limited, hereinafter called the Company, for the purpose of constructing, maintaining, and working a steam tramway from Siligoree to Darjeeling, and whereas an agreement bearing date the eighth day of April eighteen hundred and seventy-nine has been entered into between Franklin Prestage, Esq., as trustee on behalf of the Company, and the Secretary of State for India in Council, for the above purpose, and whereas it is expedient that the Company should be authorized to construct, maintain, and work a steam tramway upon the existing cart road between Siligoree and Darjeeling as aforesaid, and to do all things necessary in that behalf; It is enacted as follows:—

1. This Act may be called The Darjeeling Steam Tramway Act; and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. The Company may construct and maintain upon the said existing cart road between Siligoree and Darjeeling a tramway, conformable to the specification and conditions set forth in the hereinbefore mentioned agreement between the said trustee for the Company and the said Secretary of State, or any agreement which may hereafter be entered into between the Company and the said Secretary of State, with all proper rails, sidings, stations, offices, warehouses, fixed machinery and other works connected therewith or for the purposes thereof, and use and employ upon such tramway such locomotive engines or other moving power, and such carriages or wagons to be drawn or propelled thereby, as they may deem fit.

3. The Company may, with the permission of such officer as the Local Government may from time to time empower in that behalf, obstruct the said cart road, but in such case the Company shall provide such accommodation for the local traffic during such obstruction as the said officer shall direct.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[Second Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 16th April 1879, and having received the assent of His Excellency the Governor-General on the 22nd May 1879, is hereby promulgated for general information:—

Act No. VII of 1879.

An Act to provide for the proper management of certain Inland Steam Vessels.

WHEREAS it is expedient that inland steam vessels of a burden exceeding one hundred tons should be commanded by competent persons, and it is therefore desirable to provide for the examination of commanders of such vessels and for the granting of certificates to them: It is enacted as follows:—

1. "Inland steam vessel" in this Act means Definition of "inland steam vessel." a steam vessel of a burden exceeding one hundred tons engaged in the inland trade of Bengal which in the course of its ordinary voyage traverses at any time of the year any part of the river Hooghly below the town of Calcutta.

2. The local Government may from time to time make, alter, add to, or repeal rules for the examination of, and the granting of certificates to, commanders of inland steam vessels;

Provided that the first rules made under this Act shall be published in the *Calcutta Gazette* at least two months before they take effect.

3. Every inland steam vessel shall be commanded by a person holding a certificate duly in force under the said rules.

4. If any such vessel is not so commanded, the owner thereof shall be liable, on conviction before a Magistrate to a fine not exceeding one thousand rupees; and such fine may from time to time be reimposed on the said owner after the expiration of one month from the last previous conviction, so long as the provisions of section 3 are not complied with in respect of such vessel.

5. A Commander of any inland steam vessel who holds a certificate duly in force under the said rules shall be deemed to be a pilot in respect of such vessel for the purposes of section 38 of the Indian Ports Act, 1875.

6. In any of the cases following (namely):—

(a) Whenever any inland steam vessel is wrecked, abandoned, or materially damaged in any

part of the River Hooghly below the town of Calcutta;

(b) Whenever any such vessel causes loss or material damage to any other inland steam vessel or to any sea-going vessel in the aforesaid part of the river Hooghly;

(c) Whenever, by reason of any casualty happening to or on board of any inland steam vessel in the aforesaid part of the river Hooghly, loss of life ensues;

The Commander shall give immediate notice of such wreck, abandonment, loss, damage, or casualty, to the Port Officer of Calcutta.

Any Commander wilfully failing to give notice under this section shall be liable to a fine not exceeding five hundred rupees.

The Port Officer receiving such notice shall without delay communicate the same to the local Government.

7. If in any such case a formal investigation appears to the local Government to be requisite or expedient, the local Government may order such investigation, and the provisions of section 4, sections 6 to 11 (both inclusive), and sections 15 and 16 of the Indian Merchant Shipping Act, 1875, shall be applicable, as far as may be, to all proceedings under this section.

8. The local Government may suspend or cancel the certificate of any Commander as aforesaid if he is reported by the court making such investigation to be incompetent, or to have been guilty of misconduct, or if he has been convicted of a non-bailable offence.

9. No proceedings shall be taken against any person for the recovery of a penalty under this Act before such day as the Lieutenant-Governor may fix by notification in the *Calcutta Gazette*.

10. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the consent of the Governor-General.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[Second Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 17th April 1879, and having received the assent of His Excellency the Governor-General on the 22nd May 1879, is hereby promulgated for general information:—

ACT No. VIII OF 1879.

An Act to define and limit the powers of Settlement Officers.

WHEREAS it is expedient to define and limit the powers of Settlement Officers: It is enacted as follows:—

1. This Act extends to all the territories under the administration of the Lieutenant-Governor of Bengal, and

it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act No. III of 1878 (an Act to define and limit the powers of settlement officers with respect to enhancement of rent) is hereby repealed.

3. In this Act—
“Settlement Officer” means the Collector or any officer in charge of the revenue jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector, or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the enquiries and proceedings connected with any settlement of land revenue, and any officer who may be appointed by the Lieutenant-Governor to make any such settlement;

“Under-tenant” means any holder of a heritable and transferable intermediate tenure between the Government and the ryot other than a zemindar.

4. Nothing contained in section 51 of Regulation VIII of 1793, or in sections 13, 14, and 17 of Act X of 1859, or in sections 14, 15, and 18 of Bengal Act VIII of 1869, shall affect any settlement proceedings under Regulation VII of 1822, or under any other law for the time being in force for the regulation of settlements of land revenue.

5. In any such settlement proceedings the rent recorded as demandable from each ryot shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the revenue authorities from time to time empowered in that behalf by the Lieutenant-Governor.

6. The Settlement Officer may, on some one or other of the following grounds of enhancement, record a higher rent as demandable from any ryot having a right of occupancy than the rent which was previously paid by him, viz. —

(i) That the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of ryots for land of a similar description and with similar advantages in the surrounding neighbourhood.

(ii) That the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the agency, or at the expense, of the ryot since the rent of the ryot was last fixed.

(iii) That the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the ryot since the rent of the ryot was last fixed; and that such higher rent does not bear a higher proportion to the rent of such ryot as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed.

(iv) That the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the ryot since the last

previous settlement of the lands was made; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar description and the same area, according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlements, or as otherwise ascertained and certified by the Settlement Officer.

(v) That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

7. The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules:—

(a) Whenever the Settlement Officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against the Government.

(b) If the Settlement Officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten per cent. below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and ryots whose holdings fall within his tenure.

(c) If the Settlement Officer shall find that the tenure is not binding as against the Government, he shall first determine the proportionate amount of the demand of land revenue to be assessed upon the lands included in the tenure in accordance with any orders of Government for the time being in force regulating the demand of land revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land revenue or more than the aggregate of the rents recorded as payable to him from the subordinate under-tenants and ryots whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

8. When the rent demandable from any under-tenant or ryot is recorded at an amount below that to which the rent of such under-tenant or ryot might have been enhanced under this Act, it may be recorded that such under-tenant or ryot shall from time to time be liable to pay increased rent from such dates as may be fixed by the Settlement Officer, until the rent paid by him reaches the amount which the Settlement Officer may determine to be properly payable by him under this Act.

9. Whenever a higher rent has been recorded as demandable from any under-tenant or ryot than the rent previously paid by him, the Settlement Officer shall cause to be published a copy of the *jummabundi*, or extracts therefrom, specifying in respect of each such under-tenant or ryot the rent recorded as payable by him, and, in the case of a ryot, the clause or

clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the *jummabundi*, or of such extracts therefrom as the Collector may think fit, at the mal cutcherry of the village to which the *jummabundi* relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the *jummabundi* can be inspected at the office of the Settlement Officer.

10. Every under-tenant and ryot shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or ryot to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

But nothing in clause (c) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (c).

No suit under this section shall be instituted otherwise than within four months after the publication of the *jummabundi*, or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favor of the defendant for such arrears, with such costs as may seem proper.

12. If publication of the copy of a *jummabundi* or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

13. Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid, shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

14. The provisions of this Act shall apply to all settlement proceedings under Regulation VII of 1822 which may have been confirmed after the commencement of Bengal Act III of 1878, or which may hereafter be confirmed or sanctioned by the revenue authorities from time to time empowered in that behalf by the Lieutenant-Governor, whether such proceedings shall have been commenced before or after the commencement of the said Act.

W. E. H. FORSYTH,
Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, JUNE 18, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 16th April 1879, and having received the assent of His Excellency the Governor-General on the 20th May 1879, is hereby promulgated for general information:—

ACT No. VI OF 1879.

An Act to provide for the construction of a Steam Tramway between Siligoree and Darjeeling.

WHEREAS a Company has been formed called the Darjeeling Steam Tramway Company, Limited, hereinafter called the Company, for the purpose of constructing, maintaining, and working a steam tramway from Siligoree to Darjeeling, and whereas an agreement bearing date the eighth day of April eighteen hundred and seventy-nine has been entered into between Franklin Prestage, Esq., as trustee on behalf of the Company, and the Secretary of State for India in Council, for the above purpose, and whereas it is expedient that the Company should be authorized to construct, maintain, and work a steam tramway upon the existing cart road between Siligoree and Darjeeling as aforesaid, and to do all things necessary in that behalf; It is enacted as follows:—

1. This Act may be called The Darjeeling Steam Tramway Act; and it shall come into force from the date on which

it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. The Company may construct and maintain upon the said existing cart road between Siligoree and Darjeeling a tramway, conformable to the specification and conditions set forth in the hereinbefore mentioned agreement between the said trustee for the Company and the said Secretary of State, or any agreement which may hereafter be entered into between the Company and the said Secretary of State, with all proper rails, sidings, stations, offices, warehouses, fixed machinery and other works connected therewith or for the purposes thereof, and use and employ upon such tramway such locomotive engines or other moving power, and such carriages or wagons to be drawn or propelled thereby, as they may deem fit.

3. The Company may, with the permission of such officer as the Local Government may from time to time empower in that behalf, obstruct the said cart road, but in such case the Company shall provide such accommodation for the local traffic during such obstruction as the said officer shall direct.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 16th April 1879, and having received the assent of His Excellency the Governor-General on the 22nd May 1879, is hereby promulgated for general information:—

ACT No. VII OF 1879.

An Act to provide for the proper management of certain Inland Steam Vessels.

WHEREAS it is expedient that inland steam vessels of a burden exceeding one hundred tons should be commanded by competent persons, and it is therefore desirable to provide for the examination of commanders of such vessels and for the granting of certificates to them: It is enacted as follows:—

1. "Inland steam vessel" in this Act means a steam vessel of a burden exceeding one hundred tons engaged in the inland trade of Bengal which in the course of its ordinary voyage traverses at any time of the year any part of the river Hooghly below the town of Calcutta.

2. The local Government may from time to time make, alter, add to, or repeal rules for the examination of, and the granting of certificates to, commanders of inland steam vessels;

Provided that the first rules made under this Act shall be published in the *Calcutta Gazette* at least two months before they take effect.

3. Every inland steam vessel shall be commanded by a person holding a certificate duly in force under the said rules.

4. If any such vessel is not so commanded, the owner thereof shall be liable, on conviction before a Magistrate to a fine not exceeding one thousand rupees; and such fine may from time to time be reimposed on the said owner after the expiration of one month from the last previous conviction, so long as the provisions of section 3 are not complied with in respect of such vessel.

5. A Commander of any inland steam vessel who holds a certificate duly in force under the said rules shall be deemed to be a pilot in respect of such vessel for the purposes of section 38 of the Indian Ports Act, 1875.

6. In any of the cases following (namely):—

(a) Whenever any inland steam vessel is wrecked, abandoned, or materially damaged in any part of the River Hooghly below the town of Calcutta;

(b) Whenever any such vessel causes loss or material damage to any other inland steam vessel or to any sea-going vessel in the aforesaid part of the river Hooghly;

(c) Whenever, by reason of any casualty happening to or on board of any inland steam vessel in the aforesaid part of the river Hooghly, loss of life ensues;

The Commander shall give immediate notice of such wreck, abandonment, loss, damage, or casualty, to the Port Officer of Calcutta.

Any Commander wilfully failing to give notice under this section shall be liable to a fine not exceeding five hundred rupees.

The Port Officer receiving such notice shall without delay communicate the same to the local Government.

7. If in any such case a formal investigation appears to the local Government to be requisite or expedient, the local Government may order such investigation, and the provisions of section 4, sections 6 to 11 (both inclusive), and sections 15 and 16 of the Indian Merchant Shipping Act, 1875, shall be applicable, as far as may be, to all proceedings under this section.

8. The local Government may suspend or cancel the certificate of any Commander as aforesaid if he is reported by the court making such investigation to be incompetent, or to have been guilty of misconduct, or if he has been convicted of a non-bailable offence.

9. No proceedings shall be taken against any person for the recovery of a penalty under this Act before such day as the Lieutenant-Governor may fix by notification in the *Calcutta Gazette*.

10. This Act shall come into force from the date on which it may be published in the *Calcutta Gazette* with the consent of the Governor-General.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 17th April 1879, and having received the assent of His Excellency the Governor-General on the 22nd May 1879, is hereby promulgated for general information:—

ACT No. VIII OF 1879.

An Act to define and limit the powers of Settlement Officers.

WHEREAS it is expedient to define and limit the powers of Settlement Officers: It is enacted as follows:—

1. This Act extends to all the territories under the administration of the Lieutenant-Governor of Bengal, and

it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act No. III of 1878 (*an Act to define and limit the powers of settlement officers with respect to enhancement of rent*) is hereby repealed.

3. In this Act—

"Settlement Officer" means the Collector or any officer in charge of the revenue jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector, or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the enquiries and proceedings connected with any settlement of land revenue, and any officer who may be appointed by the Lieutenant-Governor to make any such settlement;

"Under-tenant" means any holder of a heritable and transferable intermediate tenure between the Government and the ryot other than a zemindar

4. Nothing contained in section 51 of Regulation VIII of 1793, or in sections 13, 14, and 17 of Act X of 1859, or in sections 14, 15, and 18 of Bengal Act VIII of 1869, shall affect any settlement proceedings under Regulation VII of 1822, or under any other law for the time being in force for the regulation of settlements of land revenue.

5. In any such settlement proceedings the rent recorded as demandable from each ryot shall, except as herein otherwise provided, be in accordance with the general rates sanctioned or subsequently approved for adoption in such settlement by the revenue authorities from time to time empowered in that behalf by the Lieutenant-Governor.

6. The Settlement Officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable from any ryot having a right of occupancy than the rent which was previously paid by him, viz. —

(i) That the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of ryots for land of a similar description and with similar advantages in the surrounding neighbourhood.

(ii) That the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the agency, or at the expense, of the ryot since the rent of the ryot was last fixed.

(iii) That the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the ryot since the rent of the ryot was last fixed; and that such higher rent does not bear a higher proportion to the rent of such ryot as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed.

(iv) That the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the ryot since the last previous settlement of the lands was made; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar description and the same area, according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which pre-

vailed at or about the time of such previous settlement, as recorded in the papers of such settlements, or as otherwise ascertained and certified by the Settlement Officer.

(v) That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

7. The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules:—

(a) Whenever the Settlement Officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against the Government.

(b) If the Settlement Officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten per cent. below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and ryots whose holdings fall within his tenure.

(c) If the Settlement Officer shall find that the tenure is not binding as against the Government, he shall first determine the proportionate amount of the demand of land revenue to be assessed upon the lands included in the tenure in accordance with any orders of Government for the time being in force regulating the demand of land revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land revenue or more than the aggregate of the rents recorded as payable to him from the subordinate under-tenants and ryots whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

8. When the rent demandable from any under-tenant or ryot is recorded at an amount below that to which the rent of such under-tenant or ryot might have been enhanced under this Act, it may be recorded that such under-tenant or ryot shall from time to time be liable to pay increased rent from such dates as may be fixed by the Settlement Officer, until the rent paid by him reaches the amount which the Settlement Officer may determine to be properly payable by him under this Act.

9. Whenever a higher rent has been recorded as demandable from any under-tenant or ryot than the rent previously paid by him, the Settlement Officer shall cause to be published a copy of the *jummabundi*, or extracts therefrom, specifying in respect of each such under-tenant or ryot the rent recorded as payable by him, and, in the case of a ryot, the clause or clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the *jummabundi*, or of such extracts therefrom as the Collector may think fit, at the mal cutcherry of the village to which the *jummabundi* relates, or at some other conspicuous place therein, and by proclamation by beat of

drum in the said village to the effect that the said copy or extracts have been so affixed, and that the *jummabundi* can be inspected at the office of the Settlement Officer.

10. Every under-tenant and ryot shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or ryot to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

But nothing in clause (c) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (c).

No suit under this section shall be instituted otherwise than within four months after the publication of the *jummabundi*, or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favor of the defendant for such arrears, with such costs as may seem proper.

12. If publication of the copy of a *jummabundi* or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

13. Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid, shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

14. The provisions of this Act shall apply to all settlement proceedings under Regulation VII of 1822 which may have been confirmed after the commencement of Bengal Act III of 1878, or which may hereafter be confirmed or sanctioned by the revenue authorities from time to time empowered in that behalf by the Lieutenant-Governor, whether such proceedings shall have been commenced before or after the commencement of the said Act.

W. E. H. FORSYTH,
Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, JULY 30, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 6th June 1879, is hereby promulgated for general information:—

ACT No. IX OF 1879.

An Act to amend the law relating to the Court of Wards.

WHEREAS it is expedient to amend the law relating to the Court of Wards within the territories under the administration of the Lieutenant-Governor of Bengal; It is enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called the Court of Wards Act, 1879.

It extends to all the territories under the administration of the Lieutenant-Governor of Bengal, including the scheduled districts of Bengal as defined in the Scheduled Districts Act, 1874.

It shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act IV of 1870 (the Court of Wards Act), section 11 of Act XXXV of 1858, sections 12, 14, and 15 of Act XL of 1858, and so much of section 21 of Act XL of 1858 as provides that the Civil Court may direct the Collector to take charge of an estate, are hereby repealed.

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards as constituted by Bengal Act IV of 1870 shall be deemed to be under the charge of the Court of Wards as constituted by this Act.

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the Civil Court under section 11 of Act XXXV of 1858, or under section 12, section 14, or section 21 of Act XL of 1858, shall from such commencement be deemed to be under the charge of the Court of Wards.

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards Act, 1870, and now in force, shall (so far as they are consistent with this Act) be deemed to be respectively prescribed, made, and executed under this Act.

And all orders and appointments made by Collectors under Act XXXV of 1858 or Act XL of 1858, and now in force, shall (so far as they are consistent with this Act) be deemed to be made under this Act.

And all suits and proceedings now pending, which may have been commenced under the Court of Wards Act, 1870, or by Collectors under Act XXXV of 1858 or Act XL of 1858, shall be deemed to be commenced under this Act.

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

“Collector” includes any officer in charge of the revenue jurisdiction of a district;

“The Court” means the Court of Wards;

or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or

any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated:

"Estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue:

"Minor" means a person who has not completed his age of twenty-one years:

"Section" means a section of this Act:

"Ward" means any person who is under the charge of the Court of Wards, or whose property is under such charge.

4. Nothing contained in this Act shall affect any of the provisions of Act XXXIV of 1858, or the jurisdiction, as respects infants, of any High Court of Judicature.

PART II.

CONSTITUTION, JURISDICTION, AND POWERS OF THE COURT OF WARDS.

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends.

It shall deal with every person and every property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act.

6. Proprietors of estates shall be held disqualified to manage their own property when they are—

- females declared by the Court incompetent to manage their own property;
- persons declared by the Court to be minors;
- persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs;
- persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property.

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate are disqualified as provided

in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court

shall be bound to release from its charge such person and his property.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor,—

- take charge of such property without taking charge of such person;
- refrain from taking charge of any such person or property;
- at any time withdraw from such charge if taken;
- at any time resume such charge, after having withdrawn from it.

10. Whenever a Civil Court thinks it necessary, under section 9 of Act XL of 1858, to make provision for the charge of the person and property of a minor,

whenever a Civil Court recalls any certificate under section 21 of the said Act,

or whenever a person has been adjudged, under Act XXXV of 1858, to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor; and it shall be at the discretion of the Court of Wards to take charge of such person or property, or to refuse to do so.

Nothing contained in sections 12 to 19 (both inclusive) of Act XXXV of 1858 shall be held to apply to persons or properties under the charge of the Court of Wards.

11. Whenever one or more of the joint proprietors of whose properties the Court of Wards has taken charge ceases to be subject to the jurisdiction of the Court of Wards, and the persons and properties of the remaining joint proprietors thereby cease to be subject to the jurisdiction of the Court of Wards, notwithstanding the otherwise continued disqualification of such remaining joint proprietors, the Civil Court which would have jurisdiction under Act XL of 1858 may, on the application of the Court of Wards, direct the Court of Wards to retain or resume charge of the persons and properties of the still disqualified proprietors during the continuance of their disqualification, or, subject to the provisions of section 12, for so long as such Civil Court may order.

And in case any of the proprietors who have ceased to be subject to the jurisdiction of the Court of Wards so consent, the Court of Wards may retain or resume the charge of the properties of such proprietors, or any part thereof, so long as the property of any of the disqualified proprietors remains in charge of the Court of Wards.

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 or under section 11, and from the charge of any person or property which before the commencement of this Act was placed under the charge of the Collector by a Civil Court under section 12,

section 14, or section 21 of Act XL of 1858, or under section 11 of Act XXXV of 1858:

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act VII of 1876, or until the dispute has been determined by a competent Civil Court.

14. Subject to the provisions of this Act the Court—

(a) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management; and

(b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the Divisions and the Collectors of the Districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

The Court may, with the sanction of the Lieutenant-Governor, from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time with the like sanction revoke such delegation.

16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act; and may order that the cost of any such establishment and any such expenses be charged against any one or more properties for the purposes of which they are entertained or incurred.

17. The Court may, in respect of such of the establishments and expenses referred to in the last preceding section as are of a general nature, direct that they shall be met by a general contribution from the properties benefited thereby, to be levied in such manner and in such proportion as the Court may from time to time direct.

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such

property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate, and the demand of land revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Lieutenant-Governor, may direct.

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward under the charge of the Court, and may control and remove any manager or guardian so appointed.

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor, which may have been made by a will.

21. The Court may make such orders as to it may seem fit in respect of the custody, education, and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

22. The Court shall allow, for the support of each ward and of his family, such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties.

PART III.

PROTECTION FROM SALE OF CERTAIN ESTATES.

23. Every estate, and, subject to the provisions of section 14 of Act XI of 1859, every part or share of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act VII of 1876, shall, whilst it is under the charge of the Court, be exempt from sale for arrears of revenue:

Provided that all arrears of revenue shall be the first charge upon the proceeds of any such estate, part, or share, sold for any other cause than for arrears of revenue while under such charge.

24. No estate, the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years; but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager, or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

25. The exemption from sale for arrears of revenue given by section 24 shall only apply to cases in which a written notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector, and the Collector, after deducting the amount of the claims of the Government for revenue and other public demands and the charges of management, shall either pay the proceeds to the person authorized to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

PART IV.

ASCERTAINMENT OF DISQUALIFICATION.

27. Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such enquiry as he may deem necessary, and if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court;

and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

28. Nothing in section 27 shall prevent the Court or the Local Government from putting the provisions of this Act in force without any report from the Collector.

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue roll of his district has died,

or that the sole proprietor of any estate has died within his district, and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take such steps and make such orders for the safety and preservation of the movable property of such heirs, and of all deeds, documents, or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such movable

property, or any such deeds, documents, or papers may be, to take charge of the same, and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents, and papers within his district as are conferred by this section on the first-mentioned Collector.

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act VII of 1868, or any similar law for the time being in force.

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed, and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

31. If a sole proprietor of an estate who does not reside within the local limits of the Ordinary Original Civil Jurisdiction of the High Court is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of Act XXXV of 1858, to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

32. If a sole proprietor of an estate who does not reside within the local limits of the Ordinary Original Civil Jurisdiction of the High Court is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and upon such Collector so applying, such Civil Court shall enquire into and determine the question as to the alleged incapacity.

33. If a sole proprietor of an estate who is resident within the local limits of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the territories administered by the Lieutenant-Governor of Bengal, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other

Collector as the Court may appoint, to apply to the principal Civil Court of the 24-Pergunnahs, or to such other Civil Court as the Lieutenant-Governor, on application made to him by the Collector in that behalf, may determine.

Such Civil Court shall thereupon enquire into and determine the question as to the alleged incapacity.

34. When any enquiry is instituted by a Civil Court under section 32 or section 33, such Court shall, for the purposes of making such enquiry, have the powers conferred, and proceed in the manner prescribed, by Act XXXV of 1858 with respect to the enquiries directed to be made by the said Act.

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such enquiry, and the Court of Wards shall thereupon, in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by section 21 of Act XXXV of 1858, with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

PART V.

PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION.

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court, and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorized in writing by him in that behalf, shall take possession of all accounts, papers, and movable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorized as aforesaid, may, in case he has reason to believe that any such account, paper, or property is in any room, box, or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper, or property.

37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him,

and may order any person to deliver up any accounts, papers, or movable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession, and may order all holders of tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

PART VI.

MANAGEMENT AND GUARDIANSHIP.

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor; and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property.

40. Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the ward's interest as if the property were his own.

41. Every manager appointed by the Court shall—

- (a) have the care of so much of the property of the ward as the Court may direct;
- (b) give such security (if any) as the Court thinks fit to the Collector duly to account for all such property and for what he shall receive in respect of such property;
- (c) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management;
- (d) pass his accounts at such periods and in such form as the Court may direct;
- (e) pay the balance due from him thereon;
- (f) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court;
- (g) sign all papers, deeds, documents, and writings which may be executed by him by virtue of his office;
- (h) be entitled to such allowance, to be paid out of the property as the Court may think fit, for his care and pains in the execution of his duties;
- (i) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

Specific duties of guardian.

43. Every guardian appointed by the Court shall—

- (a) give such security (if any) as the Court thinks fit to the Collector for the due performance of his duty;
- (b) pass his accounts at such periods and in such form as the Court may direct;
- (c) pay the balance due from him thereon;
- (d) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;
- (e) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court;
- (f) be entitled to such allowance to be paid out of the property of the ward as the Court may think fit for his care and pains in the execution of his duties.

44. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian; but nothing in this section shall apply to the mother of a ward, or to a testamentary guardian.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives, if any such be eligible.

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

46. Every sum due to the Court from a manager or guardian, or from the sureties of a manager or guardian, or from any officer or servant employed under the Court, or from the sureties of any such officer or servant, shall be recoverable as a demand under Bengal Act VII of 1868, or any similar law for the time being in force.

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

48. All moneys received by the manager shall, in the first instance, be applied as the Court may direct according to circumstances,

in payment of the allowance fixed for the support and education of the ward and his family, and of all charges of management and supervision;

in or towards the discharge of the instalments of Government revenue, and of all cesses and other public demands from time to time due in respect of such property.

49. Whenever upon the accounts a *bonâ fide* surplus is shewn after making the payments mentioned in section 48, such surplus shall be applied as the

Court may direct according to the circumstances of the property concerned—

in liquidation of debts payable by the ward; in payment of such religious, charitable, and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid; in the improvement of the lands or otherwise for the benefit of the ward or his property:

Provided that the amount expended on such improvement and for such benefit shall not exceed ten per centum of the said surplus, unless, in the opinion of the Court and the Lieutenant-Governor, it is desirable, for the protection of the lands, or in the interest of the ward or his property, to expend an amount exceeding such percentage:

Provided also that if the ward is a female of sound mind, who has completed her age of twenty-one years, or a person who has completed his age of twenty-one years, and whose property remains under the charge of the Court with his consent, no part of the surplus shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid, and the remainder of the surplus shall be paid to such female or person.

50. If the ward is not a female or person as aforesaid, and if any surplus remains after providing so far as the Court may think fit for the objects mentioned in section 49, the same shall be applied in the purchase of other landed property, or invested at interest on the security of—promissory notes, debentures, stock, and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

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

stock or debentures of or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any Act of a legislature established in British India;

or such other securities, stocks, or shares, guaranteed by the Government of India or the Government of Bengal as to the Court shall seem fit.

PART VII.

Suits.

51. In every suit brought by or against any ward, he shall be therein described as a Ward of Court; and the manager of such ward's property, or if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or

guardian for the suit, and shall in such suit represent such ward, and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

52. The Court of Wards may by an order nominate or substitute any other person to be next friend or guardian for any such suit; and upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit so appointed for the name of the manager or Collector.

53. If in any such suit any Civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

54. Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

55. No suit shall be brought on behalf of any ward, unless the same be authorized by some order of the Court:

Provided that a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the Law of Limitation, but such suit shall not be afterwards proceeded with except under the sanction of the Court:

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due.

56. Nothing contained in this Part shall apply to any suit instituted or pending in the High Court, or to a proprietor who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11.

PART VIII.

PENALTIES.

57. Any person who refuses to comply with an order of a Collector under section 30, 36 or 37, shall be liable, by order of the Collector, to a fine not exceeding five hundred rupees.

58. Any person who refuses to comply with an order made under section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with.

59. Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees, and if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

PART IX.

MISCELLANEOUS.

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof.

61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the Lieutenant-Governor, obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court.

62. Nothing contained in section 60 or in section 61 shall apply to a proprietor who has consented to leave his property under the charge of the Court, as provided in the second clause of section 11.

63. All arrears of rent due by farmers, under-tenants and ryots, in respect of property under the charge of the Court (whether such rents have become due before or after the Court has taken charge) shall be recoverable as arrears of revenue, and shall constitute a demand under Bengal Act VII of 1868, or any similar Act for the time being in force.

The last preceding clause shall not apply to arrears of rent enhanced after issue of notice under section 13 of Act X of 1859, or under section 14 of Bengal Act VIII of 1869, but of which the enhancement has not been agreed to by the person who is liable to pay the same, or has not been confirmed by a competent Court.

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same with the reasons or grounds thereof.

65. Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifteen days from the date of such order; and copies of such order shall be published as the Court may direct.

66. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the Division, and from every order of a Commissioner under this Act to the Court.

68. All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court, and the Court may, if it thinks fit, revise, modify, or reverse any such order or proceeding whether an appeal is presented against such order or proceeding, or otherwise.

69. In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may from time to time receive from the Lieutenant-Governor.

70. The Court may make rules consistent with this Act—

(a) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more divisions;

(b) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property;

(c) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited;

(d) regulating the custody of securities and title deeds belonging to the estate or property of a ward;

(e) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act;

(f) prescribing the procedure to be observed when a property ceases to be under the charge of the Court;

(g) and generally for the better fulfilment of the purposes of this Act.

The Court may from time to time alter, add to, or repeal, such rules.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, AUGUST 6, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 6th June 1879, is hereby promulgated for general information:—

ACT NO. IX OF 1879.

An Act to amend the law relating to the Court of Wards.

WHEREAS it is expedient to amend the law relating to the Court of Wards within the territories under the administration of the Lieutenant-Governor of Bengal; It is enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called the Court of Wards Act, 1879.

It extends to all the territories under the administration of the Lieutenant-Governor of Bengal, including the scheduled districts of Bengal as defined in the Scheduled Districts Act, 1874.

It shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General.

2. Bengal Act IV of 1870 (the Court of Wards Act), section 11 of Act XXXV of 1858, sections 12, 14, and 15 of Act XL of 1858, and so much of section 21 of Act XL of 1858 as provides that the Civil Court may direct the Collector to take charge of an estate, are hereby repealed.

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards as constituted by Bengal Act IV of 1870 shall be deemed to be under the charge of the Court of Wards as constituted by this Act.

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the Civil Court under section 11 of Act XXXV of 1858, or under section 12, section 14, or section 21 of Act XL of 1858, shall from such commencement be deemed to be under the charge of the Court of Wards.

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards Act, 1870, and now in force, shall (so far as they are consistent with this Act) be deemed to be respectively prescribed, made, and executed under this Act.

And all orders and appointments made by Collectors under Act XXXV of 1858 or Act XL of 1858, and now in force, shall (so far as they are consistent with this Act) be deemed to be made under this Act.

And all suits and proceedings now pending, which may have been commenced under the Court of Wards Act, 1870, or by Collectors under Act XXXV of 1858 or Act XL of 1858, shall be deemed to be commenced under this Act.

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

“Collector” includes any officer in charge of the revenue jurisdiction of a district;

“Court” means the Court of Wards;

or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or

any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated:

"Estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue:

"Minor" means a person who has not completed his age of twenty-one years:

"Section" means a section of this Act:

"Ward" means any person who is under the charge of the Court of Wards, or whose property is under such charge.

4. Nothing contained in this Act shall affect any of the provisions of Act XXXIV of 1858, or the jurisdiction, as respects infants, of any High Court of Judicature.

PART II.

CONSTITUTION, JURISDICTION, AND POWERS OF THE COURT OF WARDS.

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends.

It shall deal with every person and every property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act.

6. Proprietors of estates shall be held disqualified to manage their own property when they are—

- females declared by the Court incompetent to manage their own property;
- persons declared by the Court to be minors;
- persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs;
- persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property.

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate are disqualified as provided in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court

shall be bound to release from its charge such person and his property.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor,—

- take charge of such property without taking charge of such person;
- refrain from taking charge of any such person or property;
- at any time withdraw from such charge if taken;
- at any time resume such charge, after having withdrawn from it.

10. Whenever a Civil Court thinks it necessary, under section 9 of Act XL of 1858, to make provision for the charge of the person and property of a minor, whenever a Civil Court recalls any certificate under section 21 of the said Act, or whenever a person has been adjudged, under Act XXXV of 1858, to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor; and it shall be at the discretion of the Court of Wards to take charge of such person or property, or to refuse to do so.

Nothing contained in sections 12 to 19 (both inclusive) of Act XXXV of 1858 shall be held to apply to persons or properties under the charge of the Court of Wards.

11. Whenever one or more of the joint proprietors of whose properties the Court of Wards has taken charge ceases to be subject to the jurisdiction of the Court of Wards, and the persons and properties of the remaining joint proprietors thereby cease to be subject to the jurisdiction of the Court of Wards, notwithstanding the otherwise continued disqualification of such remaining joint proprietors, the Civil Court which would have jurisdiction under Act XL of 1858 may, on the application of the Court of Wards, direct the Court of Wards to retain or resume charge of the persons and properties of the still disqualified proprietors during the continuance of their disqualification, or, subject to the provisions of section 12, for so long as such Civil Court may order.

And in case any of the proprietors who have ceased to be subject to the jurisdiction of the Court of Wards so consent, the Court of Wards may retain or resume the charge of the properties of such proprietors, or any part thereof, so long as the property of any of the disqualified proprietors remains in charge of the Court of Wards.

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 or under section 11, and from the charge of any person or property which before the commencement of this Act was placed under the charge of the Collector by a Civil Court under section 12,

section 14, or section 21 of Act XL of 1858, or under section 11 of Act XXXV of 1858:

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act VII of 1876, or until the dispute has been determined by a competent Civil Court.

14. Subject to the provisions of this Act the Court—
(a) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management; and

(b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the Divisions and the Collectors of the Districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

The Court may, with the sanction of the Lieutenant-Governor, from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time with the like sanction revoke such delegation.

16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act; and may order that the cost of any such establishment and any such expenses be charged against any one or more properties for the purposes of which they are entertained or incurred.

17. The Court may, in respect of such of the establishments and expenses referred to in the last preceding section as are of a general nature, direct that they shall be met by a general contribution from the properties benefited thereby, to be levied in such manner and in such proportion as the Court may from time to time direct.

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such

property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate, and the demand of land revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Lieutenant-Governor, may direct.

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward under the charge of the Court, and may control and remove any manager or guardian so appointed.

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor, which may have been made by a will.

21. The Court may make such orders as to it may seem fit in respect of the custody, education, and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

22. The Court shall allow, for the support of each ward and of his family, such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties.

PART III.

PROTECTION FROM SALE OF CERTAIN ESTATES.

23. Every estate, and, subject to the provisions of section 14 of Act XI of 1859, every part or share of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act VII of 1876, shall, whilst it is under the charge of the Court, be exempt from sale for arrears of revenue:

Provided that all arrears of revenue shall be the first charge upon the proceeds of any such estate, part, or share, sold for any other cause than for arrears of revenue while under such charge.

24. No estate, the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years; but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager, or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

25. The exemption from sale for arrears of revenue given by section 24 shall only apply to cases in which a written notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector, and the Collector, after deducting the amount of the claims of the Government for revenue and other public demands and the charges of management, shall either pay the proceeds to the person authorized to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

PART IV.

ASCERTAINMENT OF DISQUALIFICATION.

27. Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such enquiry as he may deem necessary, and if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court;

and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

28. Nothing in section 27 shall prevent the Court or the Local Government from putting the provisions of this Act in force without any report from the Collector.

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue roll of his district has died,

or that the sole proprietor of any estate has died within his district, and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take such steps and make such orders for the safety and preservation of the movable property of such heirs, and of all deeds, documents, or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such movable

property, or any such deeds, documents, or papers may be, to take charge of the same, and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents, and papers within his district as are conferred by this section on the first-mentioned Collector.

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act VII of 1868, or any similar law for the time being in force.

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed, and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

31. If a sole proprietor of an estate who does not reside within the local limits of the Ordinary Original Civil Jurisdiction of the High Court is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of Act XXXV of 1858, to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

32. If a sole proprietor of an estate who does not reside within the local limits of the Ordinary Original Civil Jurisdiction of the High Court is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and upon such Collector so applying, such Civil Court shall enquire into and determine the question as to the alleged incapacity.

33. If a sole proprietor of an estate who is resident within the local limits of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the territories administered by the Lieutenant-Governor of Bengal, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other

Collector as the Court may appoint, to apply to the principal Civil Court of the 24-Pergunnahs, or to such other Civil Court as the Lieutenant-Governor, on application made to him by the Collector in that behalf, may determine.

Such Civil Court shall thereupon enquire into and determine the question as to the alleged incapacity.

34. When any enquiry is instituted by a Civil Court under section 32 or section 33, such Court shall, for the purposes of making such enquiry, have the powers conferred, and proceed in the manner prescribed, by Act XXXV of 1858 with respect to the enquiries directed to be made by the said Act.

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such enquiry, and the Court of Wards shall thereupon, in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by section 21 of Act XXXV of 1858, with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

PART V.

PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION.

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court, and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorized in writing by him in that behalf, shall take possession of all accounts, papers, and movable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorized as aforesaid, may, in case he has reason to believe that any such account, paper, or property is in any room, box, or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper, or property.

37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him,

and may order any person to deliver up any accounts, papers, or movable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession, and may order all holders of tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

PART VI.

MANAGEMENT AND GUARDIANSHIP.

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor;

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property.

40. Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the ward's interest as if the property were his own.

41. Every manager appointed by the Court shall—

(a) have the care of so much of the property of the ward as the Court may direct;

(b) give such security (if any) as the Court thinks fit to the Collector duly to account for all such property and for what he shall receive in respect of such property;

(c) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management;

(d) pass his accounts at such periods and in such form as the Court may direct;

(e) pay the balance due from him thereon;

(f) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court;

(g) sign all papers, deeds, documents, and writings which may be executed by him by virtue of his office;

(h) be entitled to such allowance, to be paid out of the property as the Court may think fit, for his care and pains in the execution of his duties;

(i) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

Specific duties of guardian.

43. Every guardian appointed by the Court shall—
- give such security (if any) as the Court thinks fit to the Collector for the due performance of his duty;
 - pass his accounts at such periods and in such form as the Court may direct;
 - pay the balance due from him thereon;
 - continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;
 - apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court;
 - be entitled to such allowance to be paid out of the property of the ward as the Court may think fit for his care and pains in the execution of his duties.

44. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian; but nothing in this section shall apply to the mother of a ward, or to a testamentary guardian.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives, if any such be eligible.

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

46. Every sum due to the Court from a manager or guardian, or from the sureties of a manager or guardian, or from any officer or servant employed under the Court, or from the sureties of any such officer or servant, shall be recoverable as a demand under Bengal Act VII of 1868, or any similar law for the time being in force.

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

48. All moneys received by the manager shall, in the first instance, be applied as the Court may direct according to circumstances,

in payment of the allowance fixed for the support and education of the ward and his family, and of all charges of management and supervision;

in or towards the discharge of the instalments of Government revenue, and of all cesses and other public demands from time to time due in respect of such property.

49. Whenever upon the accounts a *bona fide* surplus is shewn after making the payments mentioned in section 48, such surplus shall be applied as the

Court may direct according to the circumstances of the property concerned—

in liquidation of debts payable by the ward; in payment of such religious, charitable, and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid; in the improvement of the lands or otherwise for the benefit of the ward or his property:

Provided that the amount expended on such improvement and for such benefit shall not exceed ten per cent. of the said surplus, unless, in the opinion of the Court and the Lieutenant-Governor, it is desirable, for the protection of the lands, or in the interest of the ward or his property, to expend an amount exceeding such percentage:

Provided also that if the ward is a female of sound mind, who has completed her age of twenty-one years, or a person who has completed his age of twenty-one years, and whose property remains under the charge of the Court with his consent, no part of the surplus shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid, and the remainder of the surplus shall be paid to such female or person.

50. If the ward is not a female or person as aforesaid, and if any surplus remains after providing so far as the Court may think fit for the objects mentioned in section 49, the same shall be applied in the purchase of other landed property, or invested at interest on the security of—promissory notes, debentures, stock, and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland;

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

stock or debentures of or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any Act of a legislature established in British India;

or such other securities, stocks, or shares, guaranteed by the Government of India or the Government of Bengal as to the Court shall seem fit.

PART VII.

SUITS.

51. In every suit brought by or against any ward, he shall be therein described as a Ward of Court; and the manager of such ward's property, or if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or

guardian for the suit, and shall in such suit represent such ward, and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

52. The Court of Wards may by an order nominate or substitute any other person to be next friend or guardian for any such suit; and upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit so appointed for the name of the manager or Collector.

53. If in any such suit any Civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

54. Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

55. No suit shall be brought on behalf of any ward, unless the same be authorized by some order of the Court:

Provided that a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the Law of Limitation, but such suit shall not be afterwards proceeded with except under the sanction of the Court:

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due.

56. Nothing contained in this Part shall apply to any suit instituted or pending in the High Court, or to a proprietor who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11.

PART VIII.

PENALTIES.

57. Any person who refuses to comply with an order of a Collector under section 29, 30, 36 or 37, shall be liable, by order of the Collector, to a fine not exceeding five hundred rupees.

58. Any person who refuses to comply with an order made under section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with.

59. Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees, and if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

PART IX.

MISCELLANEOUS.

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof.

61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the Lieutenant-Governor, obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court.

62. Nothing contained in section 60 or in section 61 shall apply to a proprietor who has consented to leave his property under the charge of the Court, as provided in the second clause of section 11.

63. All arrears of rent due by farmers, under-tenants and ryots, in respect of property under the charge of the Court (whether such rents have become due before or after the Court has taken charge) shall be recoverable as arrears of revenue, and shall constitute a demand under Bengal Act VII of 1868, or any similar Act for the time being in force.

The last preceding clause shall not apply to arrears of rent enhanced after issue of notice under section 13 of Act X of 1859, or under section 14 of Bengal Act VIII of 1869, but of which the enhancement has not been agreed to by the person who is liable to pay the same, or has not been confirmed by a competent Court.

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same with the reasons or grounds thereof.

65. Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifteen days from the date of such order; and copies of such order shall be published as the Court may direct.

66. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the Division, and from every order of a Commissioner under this Act to the Court.

68. All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court, and the Court may, if it thinks fit, revise, modify, or reverse any such order or proceeding whether an appeal is presented against such order or proceeding, or otherwise.

69. In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may from time to time receive from the Lieutenant-Governor.

70. The Court may make rules consistent with this Act—

(a) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more divisions;

(b) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property;

(c) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited;

(d) regulating the custody of securities and title deeds belonging to the estate or property of a ward;

(e) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act;

(f) prescribing the procedure to be observed when a property ceases to be under the charge of the Court;

(g) and generally for the better fulfilment of the purposes of this Act.

The Court may from time to time alter, add to, or repeal, such rules.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.



The Calcutta Gazette.

WEDNESDAY, AUGUST 13, 1879.

PART III.

Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 15th April 1879, and having received the assent of His Excellency the Governor-General on the 6th June 1879, is hereby promulgated for general information:—

ACT No. IX OF 1879.

An Act to amend the law relating to the Court of Wards.

WHEREAS it is expedient to amend the law relating to the Court of Wards within the territories under the administration of the Lieutenant-Governor of Bengal; It is enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called the Court of Wards Act, 1879.

It extends to all the territories under the administration of the Lieutenant-Governor of Bengal, including the scheduled districts of Bengal as defined in the Scheduled Districts Act, 1874.

It shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

2. Bengal Act IV of 1870 (the Court of Wards Act), section 11 of Act XXXV of 1858, sections 12, 14, and 15 of Act XL of 1858, and so much of section 21 of Act XL of 1858 as provides that the Civil Court may direct the Collector to take charge of an estate, are hereby repealed.

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards as constituted by Bengal Act IV of 1870 shall be deemed to be under the charge of the Court of Wards as constituted by this Act.

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the Civil Court under section 11 of Act XXXV of 1858, or under section 12, section 14, or section 21 of Act XL of 1858, shall from such commencement be deemed to be under the charge of the Court of Wards.

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards Act, 1870, and now in force, shall (so far as they are consistent with this Act) be deemed to be respectively prescribed, made, and executed under this Act.

And all orders and appointments made by Collectors under Act XXXV of 1858 or Act XL of 1858, and now in force, shall (so far as they are consistent with this Act) be deemed to be made under this Act.

And all suits and proceedings now pending, which may have been commenced under the Court of Wards Act, 1870, or by Collectors under Act XXXV of 1858 or Act XL of 1858, shall be deemed to be commenced under this Act.

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

“Collector” includes any officer in charge of the revenue jurisdiction of a district:

“Court” means the Court of Wards;

or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or

any other person; it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated:

"Estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue:

"Minor" means a person who has not completed his age of twenty-one years:

"Section" means a section of this Act:

"Ward" means any person who is under the charge of the Court of Wards, or whose property is under such charge.

4. Nothing contained in this Act shall affect any of the provisions of Act XXXIV of 1858, or the jurisdiction, as respects infants, of any High Court of Judicature.

PART II.

CONSTITUTION, JURISDICTION, AND POWERS OF THE COURT OF WARDS.

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends.

It shall deal with every person and every property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act.

6. Proprietors of estates shall be held disqualified to manage their own property when they are—

- females declared by the Court incompetent to manage their own property;
- persons declared by the Court to be minors;
- persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs;
- persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property.

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate are disqualified as provided in the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court

shall be bound to release from its charge such person and his property.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor,—

- take charge of such property without taking charge of such person;
- refrain from taking charge of any such person or property;
- at any time withdraw from such charge if taken;
- at any time resume such charge, after having withdrawn from it.

10. Whenever a Civil Court thinks it necessary, under section 9 of Act of 1858, and Act XXXV of 1858, to make provision for the charge of the person and property of a minor,

whenever a Civil Court recalls any certificate under section 21 of the said Act, or whenever a person has been adjudged, under Act XXXV of 1858, to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor; and it shall be at the discretion of the Court of Wards to take charge of such person or property, or to refuse to do so.

Nothing contained in sections 12 to 19 (both inclusive) of Act XXXV of 1858 shall be held to apply to persons or properties under the charge of the Court of Wards.

11. Whenever one or more of the joint proprietors of whose properties the Court of Wards has taken charge ceases to be subject to the jurisdiction of the Court of Wards, and the persons and properties of the remaining joint proprietors thereby cease to be subject to the jurisdiction of the Court of Wards, notwithstanding the otherwise continued disqualification of such remaining joint proprietors, the Civil Court which would have jurisdiction under Act XL of 1858 may, on the application of the Court of Wards, direct the Court of Wards to retain or resume charge of the persons and properties of the still disqualified proprietors during the continuance of their disqualification, or, subject to the provisions of section 12, for so long as such Civil Court may order.

And in case any of the proprietors who have ceased to be subject to the jurisdiction of the Court of Wards so consent, the Court of Wards may retain or resume the charge of the properties of such proprietors, or any part thereof, so long as the property of any of the disqualified proprietors remains in charge of the Court of Wards.

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 or under section 11, and from the charge of any person or property which before the commencement of this Act was placed under the charge of the Collector by a Civil Court under section 12,

section 14, or section 21 of Act XL of 1858, or under section 11 of Act XXXV of 1858:

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act VII of 1876, or until the dispute has been determined by a competent Civil Court.

14. Subject to the provisions of this Act the Court—

(a) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management; and

(b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the Divisions and the Collectors of the Districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

The Court may, with the sanction of the Lieutenant-Governor, from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time with the like sanction revoke such delegation.

16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act;

and may order that the cost of any such establishment and any such expenses be charged against any one or more properties for the purposes of which they are entertained or incurred.

17. The Court may, in respect of such of the establishments and expenses referred to in the last preceding section as are of a general nature, direct that they shall be met by a general contribution from the properties benefited thereby, to be levied in such manner and in such proportion as the Court may from time to time direct.

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such

property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate, and the demand of land revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Lieutenant-Governor, may direct.

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward under the charge of the Court, and may control and remove any manager or guardian so appointed.

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor, which may have been made by a will.

21. The Court may make such orders as to it may seem fit in respect of the custody, education, and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

22. The Court shall allow, for the support of each ward and of his family, such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties.

PART III.

PROTECTION FROM SALE OF CERTAIN ESTATES.

23. Every estate, and, subject to the provisions of section 14 of Act XI of 1859, every part or share of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act VII of 1876, shall, whilst it is under the charge of the Court, be exempt from sale for arrears of revenue:

Provided that all arrears of revenue shall be the first charge upon the proceeds of any such estate, part, or share, sold for any other cause than for arrears of revenue while under such charge.

24. No estate, the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years; but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager, or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

25. The exemption from sale for arrears of revenue given by section 24 shall only apply to cases in which a written notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector, and the Collector, after deducting the amount of the claims of the Government for revenue and other public demands and the charges of management, shall either pay the proceeds to the person authorized to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

PART IV.

ASCERTAINMENT OF DISQUALIFICATION.

27. Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such enquiry as he may deem necessary, and if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court;

and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

28. Nothing in section 27 shall prevent the Court or the Local Government from putting the provisions of this Act in force without any report from the Collector.

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue roll of his district has died,

or that the sole proprietor of any estate has died within his district, and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take such steps and make such orders for the safety and preservation of the movable property of such heirs, and of all deeds, documents, or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such movable

property, or any such deeds, documents, or papers may be, to take charge of the same, and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents, and papers within his district as are conferred by this section on the first-mentioned Collector.

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act VII of 1868, or any similar law for the time being in force.

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed, and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

31. If a sole proprietor of an estate who does not reside within the local limits of the Ordinary Original Civil Jurisdiction of the High Court is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of Act XXXV of 1858, to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

32. If a sole proprietor of an estate who does not reside within the local limits of the Ordinary Original Civil Jurisdiction of the High Court is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and upon such Collector so applying, such Civil Court shall enquire into and determine the question as to the alleged incapacity.

33. If a sole proprietor of an estate who is resident within the local limits of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the territories administered by the Lieutenant-Governor of Bengal, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other

Collector as the Court may appoint, to apply to the principal Civil Court of the 24-Pergunnahs, or to such other Civil Court as the Lieutenant-Governor, on application made to him by the Collector in that behalf, may determine.

Such Civil Court shall thereupon enquire into and determine the question as to the alleged incapacity.

34. When any enquiry is instituted by a Civil Court under section 32 or section 33, such Court shall, for the purposes of making such enquiry, have the powers conferred, and proceed in the manner prescribed, by Act XXXV of 1858 with respect to the enquiries directed to be made by the said Act.

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such enquiry, and the Court of Wards shall thereupon, in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by section 21 of Act XXXV of 1858, with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

PART V.

PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION.

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court, and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorized in writing by him in that behalf, shall take possession of all accounts, papers, and movable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorized as aforesaid, may, in case he has reason to believe that any such account, paper, or property is in any room, box, or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper, or property.

37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him,

and may order any person to deliver up any accounts, papers, or movable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession, and may order all holders of tenures and undertenures on such property to produce their titles to such tenures and under-tenures.

PART VI.

MANAGEMENT AND GUARDIANSHIP.

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor;

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property.

40. Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall in every respect act to the best of his judgment for the ward's interest as if the property were his own.

41. Every manager appointed by the Court shall—

(a) have the care of so much of the property of the ward as the Court may direct;

(b) give such security (if any) as the Court thinks fit to the Collector duly to account for all such property and for what he shall receive in respect of such property;

(c) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management;

(d) pass his accounts at such periods and in such form as the Court may direct;

(e) pay the balance due from him thereon;

(f) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by such Court;

(g) sign all papers, deeds, documents, and writings which may be executed by him by virtue of his office;

(h) be entitled to such allowance, to be paid out of the property as the Court may think fit, for his care and pains in the execution of his duties;

(i) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

Specific duties of guardian.

43. Every guardian appointed by the Court shall—

- (a) give such security (if any) as the Court thinks fit to the Collector for the due performance of his duty;
- (b) pass his accounts at such periods and in such form as the Court may direct;
- (c) pay the balance due from him thereon;
- (d) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship;
- (e) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court;
- (f) be entitled to such allowance to be paid out of the property of the ward as the Court may think fit for his care and pains in the execution of his duties.

44. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian; but nothing in this section shall apply to the mother of a ward, or to a testamentary guardian.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives, if any such be eligible.

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

46. Every sum due to the Court from a manager or guardian, or from the sureties of a manager or guardian, or from any officer or servant employed under the Court, or from the sureties of any such officer or servant, shall be recoverable as a demand under Bengal Act VII of 1868, or any similar law for the time being in force.

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

48. All moneys received by the manager shall, in the first instance, be applied as the Court may direct according to circumstances,

in payment of the allowance fixed for the support and education of the ward and his family, and of all charges of management and supervision;

in or towards the discharge of the instalments of Government revenue, and of all cesses and other public demands from time to time due in respect of such property.

49. Whenever upon the accounts a *bona fide* surplus is shown after making the payments mentioned in section 48, such surplus shall be applied as the

Court may direct according to the circumstances of the property concerned—

in liquidation of debts payable by the ward; in payment of such religious, charitable, and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid; in the improvement of the lands or otherwise for the benefit of the ward or his property.

Provided that the amount expended on such improvement and for such benefit shall not exceed ten per centum of the said surplus, unless, in the opinion of the Court and the Lieutenant-Governor, it is desirable, for the protection of the lands, or in the interest of the ward or his property, to expend an amount exceeding such percentage:

Provided also that if the ward is a female of sound mind, who has completed her age of twenty-one years, or a person who has completed his age of twenty-one years, and whose property remains under the charge of the Court with his consent, no part of the surplus shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid, and the remainder of the surplus shall be paid to such female or person.

50. If the ward is not a female or person as aforesaid, and if any surplus remains after providing so far as the Court may think fit for the objects mentioned in section 49, the same shall be applied in the purchase of other landed property, or invested at interest on the security of—promissory notes, debentures, stock, and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland; bonds, debentures, and annuities charged by the Imperial Parliament on the revenues of India;

stock or debentures of or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council;

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any Act of a legislature established in British India;

or such other securities, stocks, or shares, guaranteed by the Government of India or the Government of Bengal as to the Court shall seem fit.

PART VII. SUITS.

51. In every suit brought by or against any ward, he shall be therein described as a Ward of Court; and the manager of such ward's property, or if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or

Manager or Collector to be next friend or guardian in suits by or against ward.

PART IX.

MISCELLANEOUS.

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof.

61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the Lieutenant-Governor, obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court.

62. Nothing contained in section 60 or in section 61 shall apply to a proprietor who has consented to leave his property under the charge of the Court, as provided in the second clause of section 11.

63. All arrears of rent due by farmers, under-tenants and ryots, in respect of property under the charge of the Court (whether such rents have become due before or after the Court has taken charge) shall be recoverable as arrears of revenue, and shall constitute a demand under Bengal Act VII of 1868, or any similar Act for the time being in force.

The last preceding clause shall not apply to arrears of rent enhanced after issue of notice under section 13 of Act X of 1859, or under section 14 of Bengal Act VIII of 1869, but of which the enhancement has not been agreed to by the person who is liable to pay the same, or has not been confirmed by a competent Court.

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same with the reasons or grounds thereof.

65. Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifteen days from the date of such order; and copies of such order shall be published as the Court may direct.

66. A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the Division, and from every order of a Commissioner under this Act to the Court.

68. All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court, and the Court may, if it thinks fit, revise, modify, or reverse any such order or proceeding whether an appeal is presented against such order or proceeding, or otherwise.

guardian for the suit, and shall in such suit represent such ward, and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

52. The Court of Wards may by an order nominate or substitute any other person to be next friend or guardian for any such suit; and upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit so appointed for the name of the manager or Collector.

53. If in any such suit any Civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

54. Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

55. No suit shall be brought on behalf of any ward, unless the same be authorized by some order of the Court:

Provided that a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the Law of Limitation, but such suit shall not be afterwards proceeded with except under the sanction of the Court:

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due.

56. Nothing contained in this Part shall apply to any suit instituted or pending in the High Court, or to a proprietor who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11.

PART VIII. PENALTIES.

57. Any person who refuses to comply with an order of a Collector under section 29, 30, 36 or 37, shall be liable, by order of the Collector, to a fine not exceeding five hundred rupees.

58. Any person who refuses to comply with an order made under section 47 may be punished, by order of the Court, with simple imprisonment and attachment of his property until the order is complied with.

59. Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees, and if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

For disobeying certain orders of the Collector.

For disobeying orders under section 47.

For disobeying order of Court.

69. In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may from time to time receive from the Lieutenant-Governor.

70. The Court may make rules consistent with this Act—

(a) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more divisions;

(b) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property;

(c) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited;

(d) regulating the custody of securities and title deeds belonging to the estate or property of a ward;

(e) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act;

(f) prescribing the procedure to be observed when a property ceases to be under the charge of the Court;

(g) and generally for the better fulfilment of the purposes of this Act.

The Court may from time to time alter, add to, or repeal, such rules.

W. E. H. FORSYTH,

Offg. Asst. Secy. to the Govt. of Bengal.

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